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THE

CONSTITUTIONAL

HISTORY OF ENGLAND.

VOLUME II.

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CONSTITUTIONAL HISTORY OF ENGLAND

SINCE THE ACCESSION OF GEORGE THE THIRD

1760-1860

BY

SIR THOMAS ERSKINE MAY, K.C.B.

WITH A NEW SUPPLEMENTARY CHAPTER

1861-1871

IN TWO VOLUMES

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THE

CONSTITUTIONAL HISTORY

OF

ENGLAND

SINCE

THE ACCESSION OF GEORGE THE THIRD

CHAPTER VIII.

Influence of Party on Parliamentary Government: — Principles and Origin of English Parties: — Whigs and Tories: — Sketch of Parties from the Accession of George III. until the Close of the American War: — The Coalition: — Tory Party under Mr. Pitt: — Effect of French Revolution upon Parties: — State of Parties from 1801 to 1830; and thence to 1860: — Changes in the Character and Organization of Parties.

We have surveyed the great political institutions by which the state is governed; and examined the influence which each has exercised, and their combined operation. That a form of government so composite, and combining so many conflicting forces, has generally been maintained in harmonious action, is mainly due to the organization of parties, — an agency hardly recognized by the Constitution, yet inseparable from Parliamentary government, and exercising the greatest influence, for good or evil, upon the political destinies of the country. Party has guided and controlled, and often dominated over the more ostensible authorities of the state: it has supported the Crown and aristocracy against the people: it has trampled upon public liberty; it has dethroned and coerced kings, overthrown ministers and Parliaments, humbled the nobles, and established popular rights. But it has protected

Influence of party in Parliamentary government.

the fabric of the government from shocks which threatened its very foundations. Parties have risen and fallen: but institutions have remained unshaken. The annals of party embrace a large portion of the history of England:[1] but passing lightly over its meaner incidents, — the ambition, intrigues, and jealousies of statesmen, the greed of place-hunters, and the sinister aims of faction, — we will endeavor to trace its influence in advancing or retarding the progress of constitutional liberty and enlightened legislation.

Principles represented by English parties.

The parties in which Englishmen have associated, have represented cardinal principles of government,[2] — authority on the one side, popular rights and privileges on the other. The former principle, pressed to extremes, would tend to absolutism, — the latter, to a republic: but, controlled within proper limits, they are both necessary for the safe working of a balanced constitution. When parties have lost sight of these principles, in pursuit of objects less worthy, they have degenerated into factions.[3]

Origin of parties.

The divisions, conspiracies, and civil wars, by which England was convulsed until late in the sixteenth century, must not be confounded with the development of parties. Rarely founded on distinctive principles, their ends were sought by arms, or deeds of violence and treason. Neither can we trace the origin of parties in those earlier contentions, sometimes of nobles, sometimes of Commons, with the Crown, to which we owe many of our most valued

[1] Mr. Wingrove Cooke, in his spirited "History of Party," to which I desire to acknowledge many obligations, relates the most instructive incidents of general history.

[2] "Party is a body of men united, for promoting by their joint endeavors the national interest, upon some particular principle in which they are all agreed." — *Burke's Present Discontents*, *Works*, ii. 335.

[3] "National interests" . . "would be sometimes sacrificed, and always made subordinate to, personal interests; and that, I think, is the true characteristic of faction." — *Bolingbroke's Dissert. upon Parties*, *Works*, iii. 15.

"Of such a nature are connections in politics; essentially necessary to the full performance of our public duty: accidentally liable to degenerate into faction." — *Ibid.*, *Works*, ii. 332.

liberties. They marked, indeed, the spirit of freedom which animated our forefathers; but they subsided with the occasions which had incited them. Classes asserted their rights; but parliamentary parties, habitually maintaining opposite principles, were unknown.

The germs of party, in the councils and Parliament of England, — generated by the Reformation, — were first discernible in the reign of Elizabeth. The bold spirit of the Puritans then spoke out in the House of Commons, in support of the rights of Parliament, and against her prerogatives, in matters of Church and State.[1] In their efforts to obtain toleration for their brethren and modifications of the new ritual, they were countenanced by Cecil and Walsingham and other eminent councillors of the queen. In matters of state, they could expect no sympathy from the court; but perceiving their power as an organized party, they spared no efforts to gain admission into the House of Commons, until, joined by other opponents of prerogative, they at length acquired a majority.

The Puritans.

In 1601, they showed their strength by a successful resistance to the queen's prerogative of granting monopolies in trade by royal patent. Under her weak successor, James I., ill-judged assertions of prerogative were met with bolder remonstrances. His doctrine of the divine right of kings, and the excesses of the High-Church party, widened the breach between the Crown and the great body of the Puritans,[2] and strengthened the popular party. Foremost among them were Sandys, Coke, Selden, and Pym, who may be regarded as the first leaders of a regular parliamentary opposition.

Conflict of parties under the Stuarts.

[1] Hume's Hist., iii. 497, 511. This author goes too far, when he asserts, "It was to this sect, whose principles appear so frivolous, and habits so ridiculous, that the English owe the whole freedom of their constitution." — *Ibid.*, 520. D'Ewes' Journ. 156–175.

[2] "The principles by which King James and King Charles I. governed, and the excesses of hierarchical and monarchical power, exercised in consequence of them, gave great advantage to the opposite opinions, and entirely occasioned the miseries which followed." — *Bolingbroke, Works*, iii. 50.

The arbitrary measures of Charles I., the bold schemes of Strafford, and the intolerant bigotry of Laud, precipitated a collision between the opposite principles of government, and divided the whole country into Cavaliers and Roundheads. On one side, the king's prerogative had been pushed to extremes; on the other, the defence of popular rights was inflamed by ambition and fanaticism into a fierce republican sentiment. The principles and the parties then arrayed against one another long retained their vitality, under other names and different circumstances.

Charles II., profiting little by the experience of the last reign, — nay, rather encouraged by the excesses of the commonwealth to cherish kingly power,[1] — pursued the reckless course of the Stuarts; his measures being supported by the Court party, and opposed by the Country party.

Whigs and Tories.

The contest of these parties upon the Exclusion Bill, in 1680, at length gave rise to the well-known names of Whig and Tory. Originally intended as terms of reproach and ridicule, they afterwards became the distinctive titles of two great parties, representing principles essential to the freedom and safety of the State.[2] The Whigs espoused the principles of liberty, the independent rights of Parliament and the people, and the lawfulness of resistance to a king who violated the laws. The Tories maintained the divine and indefeasible right of the king, the supremacy of prerogative, and the duty of passive obedience

[1] Bolingbroke's Dissertation on Parties, Works, iii. 52.

[2] Nothing can be more silly or pointless than these names. The supporters of the Duke of York, as Catholics, were assumed to be Irishmen, and were called by the Country party "Tories," — a term hitherto applied to a set of lawless bog-trotters, resembling the modern "Whiteboys." The Country party were called Whigs, according to some, "a vernacular, in Scotland, for corrupt and sour whey;" and, according to others, from the Scottish Covenanters of the south-western counties of Scotland, who had received the appellation of Whigamores, or Whigs, when they made an inroad upon Edinburgh in 1648, under the Marquess of Argyll. Roger North's Examen., 320–324; Burnet's Own Time, i. 78; Cooke's Hist. of Party, i. 137.

on the part of the subject.[1] Both parties alike upheld the monarchy: but the Whigs contended for the limitation of its authority within the bounds of law; the principles of the Tories favored absolutism in Church and State.[2]

Parties after the revolution of 1688.

The infatuated assaults of James II. upon the religion and liberties of the people united, for a time, the Whigs and Tories in a common cause; and the latter, in opposition to their own principles, concurred in the necessity of expelling a dangerous tyrant from his throne.[3] The Revolution was the triumph and conclusive recognition of Whig principles, as the foundation of a limited monarchy. Yet the principles of the two parties, modified by the conditions of this constitutional settlement, were still distinct and antagonistic. The Whigs continued to promote every necessary limitation of the royal authority, and to favor religious toleration;[4] the Tories generally leaned to prerogative, to High-Church doctrines, and hostility to Dissenters; while the extreme members of that party betrayed their original principles, as Non-jurors and Jacobites.

The two parties contended and intrigued, with varying success, during the reigns of William and of Anne; when the final victory of the Whigs secured constitutional government. But the stubborn principles, disappointed ambition, and factious violence of Tories disturbed the reigns of the two first kings of the House of Hanover with disaffection, treason, and civil wars.[5] The final overthrow of the Pretender, in

[1] Bolingbroke's Dissertation on Parties, Works, iii. 39; Roger North's Examen., 325–342.

[2] Brady's Hist. of the Crown, 1684, Tracts, 339; Preface to Hist. of England, &c.; and Declaration of University of Oxford. July 21st, 1683. — Cooke's Hist. of Party, i. 346; Macaulay's Hist. i. 270. Filmer says: "A man is bound to obey the king's command against law; nay, in some cases, against divine laws." — *Patriarchia*, 100.

[3] Bolingbroke's Works, iii. 124, 126.

[4] Lord Bolingbroke asserts, that the Whigs, after the revolution, insisted "on nothing further, in favor of the Dissenters, than that indulgence which the church was most willing to grant." — *Works*, iii. 132.

[5] Parl. Hist. xiii. 568; Coxe's Life of Walpole, i. 66, 199, &c.

1745, being fatal to the Jacobite cause, the Tories became a national party; and, still preserving their principles, at length transferred their hearty loyalty to the reigning king. Meanwhile the principles of both parties had naturally been modified by the political circumstances of the times. The Whigs, installed as rulers, had been engaged for more than forty years after the death of Anne, in consolidating the power and influence of the Crown in connection with Parliamentary government. The Tories, in opposition, had been constrained to renounce the untenable doctrines of their party, and to recognize the lawful rights of Parliament and the people.[1] Nay, at times they had adroitly paraded the popular principles of the Whig school against ministers, who, in the practical administration of the government and in furtherance of the interests of their party, had been too prone to forget them. Bolingbroke, Wyndham, and Shippen had maintained the constitutional virtues of short parliaments, and denounced the dangers of parliamentary corruption, the undue influence of the Crown, and a standing army.[2]

Classes from which parties mainly drawn.

Through all vicissitudes of time and circumstance, however, the distinctive principles of the two great parties were generally maintained;[3] and the social classes from which they derived their strength

1 "Toryism," says Mr. Wingrove Cooke, "was formed for government; it is only a creed for rulers." — *Hist. of Party*, ii. 49.

2 Bolingbroke's Dissertation on Parties, Works, iii. 133; The Craftsman, No. 40, &c.; Parl. Hist., vii. 311; *Ib.*, ix. 426, *et seq.*; *Ib.*, x. 375, 479; Coxe's Life of Walpole, ii. 62; Tindal's Hist., iii. 722, iv. 423; "Your right Jacobite," said Sir R. Walpole, in 1738, "disguises his true sentiments: he roars for revolution principles; he pretends to be a great friend to liberty, and a great admirer of our ancient constitution." — *Parl. Hist.*, x. 401.

3 Mr. Wingrove Cooke says, that after Bolingbroke renounced the Jacobite cause on the accession of Geo. II., "henceforward we never find the Tory party struggling to extend the prerogative of the Crown." "The principle of that party has been rather aristocratical than monarchical," — a remark which is, probably, as applicable to one party as to the other. — *Hist. of Party* ii. 105.

were equally defined. The loyal adherents of Charles I. were drawn from the territorial nobles, the country gentlemen, the higher yeomanry, the Church, and the universities: the Parliament was mainly supported by the smaller freeholders, the inhabitants of towns, and Protestant Nonconformists. Seventy years afterwards, on the accession of George I., the same classes were distinguished by similar principles. The feudal relations of the proprietors of the soil to their tenantry and the rural population, their close connection with the Church, and their traditional loyalty, assured their adherence to the politics of their forefathers. The rustics, who looked to the squire for bounty, and to the rector for the consolations of religion and charity, were not a class to inspire sentiments favorable to the sovereignty of the people. Poor, ignorant, dependent, and submissive, they seemed born to be ruled as children, rather than share in the government of their country.

On the other hand, the commercial and manufacturing towns, — the scenes of active enterprise and skilled handicraft, — comprised classes who naturally leaned to self-government, and embraced Whig principles. Merchants and manufacturers, themselves springing from the people, had no feelings or interests in common with the county-families, from whose society they were repelled with haughty exclusiveness; they were familiarized, by municipal administration, with the practice of self-government; their pursuits were congenial to political activity and progress. Even their traditions were associated with the cause of the Parliament and the people against the Crown. The stout burghers among whom they dwelt were spirited and intelligent. Congregated within the narrow bounds of a city, they canvassed, and argued, and formed a public opinion concerning affairs of state, naturally inclining to popular rights. The stern nonconformist spirit, as yet scarcely known in country villages, animated large bodies of townsmen with an hereditary distrust of authority in church and state.

It was to such communities as these that the Whig ministers of the House of Hanover, and the great territorial families of that party, looked for popular support. As land-owners, they commanded the representation of several counties and nomination boroughs. But the greater number of the smaller boroughs being under the influence of Tory squires, the Whigs would have been unequal to their opponents in parliamentary following, had not new allies been found in the moneyed classes who were rapidly increasing in numbers and importance. The superior wealth and influence of these men enabled them to wrest borough after borough from the local squires, until they secured a parliamentary majority for the Whigs. It was a natural and appropriate circumstance, that the preservation and growth of English liberties should have been associated with the progress of the country in commercial wealth and greatness. The social improvement of the people won for them privileges which it fitted them to enjoy.

Ruin of the Tories prior to the accession of George III.

Meanwhile, long-continued possession of power by the Whigs, and the growing discredit of the Jacobite party, attracted to the side of the government many Tory patrons of boroughs. These causes, aided by the corrupt parliamentary organization of that period,[1] maintained the ascendency of the Whig party until the fall of Sir Robert Walpole; and of the same party, with other alliances, until the death of George II.[2] Their rule, if signalized by a few measures which serve as landmarks in the history of our liberties, was yet distinguished by its moderation, and by respect for the theory of constitutional government, which was fairly worked out, as far as it was compatible with the political abuses and corruptions of their times. The Tories were a dispirited and helpless minority; and in 1751 their hopes of better times were extinguished by the death of the Prince of

1 *Supra*, Vol. I. 300.

2 Dodington's Diary, 386; Coxe's Pelham Administration, ii. 166.

Wales and Bolingbroke.[1] Some were gained over by the government; and others cherished, in sullen silence, the principles and sympathies of their ruined party. But the new reign rapidly revived their hopes. The young king, brought up at Leicester House, had acquired, by instruction and early association, the principles in favor at that little court.[2] His political faith, his ambition, his domestic affections, and his friendships alike attracted him towards the Tories; and his friends were, accordingly, transferred from Leicester House to St. James's. He at once became the regenerator and leader of the Tory party. If their cause had suffered discouragement and disgrace in the two last reigns, all the circumstances of this period were favorable to the revival of their principles and the triumph of their traditional policy. To rally round the throne had ever been their watchword; respect for prerogative and loyal devotion to the person of the sovereign had been their characteristic pretensions. That the source of all power was from above, was their distinctive creed. And now a young king had arisen among them, who claimed for himself their faith and loyalty. The royal authority was once more to be supreme in the government of the state: the statesmen and parties who withstood it were to be cast down and trampled upon. Who so fit as men of Tory principles and traditions to aid him in the recovery of regal power? The party which had clung with most fidelity to the Stuarts, and had defended government by prerogative, were the natural instruments for increasing — under another dynasty and different political conditions — the influence of the Crown.

Their revival in the new reign.

We have seen how early in his reign the king began to put aside his Whig councillors; and with what precipitation he installed his Tory favorite, Lord Bute, as first minister.[3] With singular steadiness

The King's efforts to overthrow the Whigs.

[1] Coxe's Life of Walpole, 379.

[2] *Supra*, Vol. I. 22; Lord Waldegrave's Mem., 63; Lord Hervey's Mem ii. 443, &c.; Coxe's Life of Walpole. 703–707.

[3] *Supra*. Vol. I. 30, 31.

of purpose, address, and artful management, he seized upon every occasion for disuniting and weakening the Whigs, and extending the influence of the Tories. It was his policy to bring men of every political connection into his service; but he specially favored Tories, and Whigs alienated from their own party. All the early administrations of his reign were coalitions. The Whigs could not be suddenly supplanted; but they were gradually displaced by men more willing to do the bidding of the court. Restored for a short time to power, under Lord Rockingham, they were easily overthrown, and replaced by the strangely composite ministry of the Duke of Grafton, consisting, according to Burke, "of patriots and courtiers, king's friends and Republicans, Whigs and Tories, treacherous friends and open enemies." [1] On the retirement of Lord Chatham, the Tories acquired a preponderance in the cabinet; and when Lord Camden withdrew, it became wholly Tory. The king could now dispense with the services of Whig statesmen; and accordingly Lord North was placed at the head of the first ministry of this reign, which was originally composed of Tories. But he seized the first opportunity of strengthening it, by a coalition with the Grenvilles and Bedfords.[2]

"Men, not measures."

Meanwhile, it was the fashion of the court to decry all party connections as factions. Personal capacity was held up as the sole qualification for the service of the Crown. This doctrine was well calculated to increase the king's own power, and to disarm parliamentary opposition. It served also to justify the gradual exclusion of the Whigs from the highest offices, and the substitution of Tories. When the Whigs had been entirely supplanted, and the Tories safely established in their place, the doctrine was heard of no more, except to discredit an opposition.

The rapid reconstruction of the Tory party was facilitated

[1] Speech on American Taxation, Works, ii. 420.
[2] Lord Mahon's Hist., v. 442.

by the organization of the king's friends.[1] Most of these men originally belonged to that party; and none could be enrolled amongst them, without speedily becoming converts to its principles.[2] Country gentlemen who had been out of favor nearly fifty years, found themselves courted and caressed; and, faithful to their principles, could now renew their activity in public life, encouraged by the smiles of their sovereign. This party was also recruited from another class of auxiliaries. Hitherto the new men, unconnected with county families, had generally enrolled themselves on the opposite side. Even where their preference to Whig principles was not decided, they had been led to that connection by jealousy of the land-owners, by the attractions of a winning cause, and government favors; but now they were won over, by similar allurements, to the court. And henceforth, much of the electoral corruption which had once contributed to the parliamentary majority of the Whigs, was turned against them by their Tory rivals and the king's friends.

The king's friends allied to the Tories.

Meanwhile, the Whigs, gradually excluded from power, were driven back upon those popular principles which had been too long in abeyance. They were still, indeed, an aristocratic body; but no longer able to rely upon family connections, they offered themselves as leaders of the people. At the same time, the revival and activity of Tory principles in the government of the state reanimated the spirit of freedom represented by their party. They resisted the dangerous influence of the Crown, and the scarcely less dangerous extension of the privileges of Parliament: they opposed the taxation of America: they favored the publication of debates, and the liberty of the press: they exposed and denounced parliamentary corruption. Their strength and character, as a party, were impaired by the jealousies and dissensions of rival families. Pelhams, Rockinghams, Bedfords, Grenvilles, and the followers of Mr. Pitt too

The Whigs in opposition.

[1] *Supra*, Vol. I. 24, 41. [2] Walp. Mem., i. 15; Butler's Rem. i. 74, &c

often lost sight of the popular cause in their contentions for mastery. But, in the main, the least favorable critic of the Whigs will scarcely venture to deny their services in the cause of liberty, from the commencement of this reign until the death of Lord Rockingham. Such was the vigor of their opposition, and such the genius and eloquence of their leaders, — Lord Chatham, Mr. Fox, Lord Camden, Mr. Burke, and Mr. Sheridan, — that they exercised a strong influence upon public opinion, and checked and moderated the arbitrary spirit of the court party. The haughty pretensions to irresponsibility, which marked the first ministers of this reign, became much lowered in the latter years of Lord North's administration. Free discussion prevailed over doctrines opposed to liberty. Nor was the publication of debates already without its good results upon the conduct of both parties.

Tories opposed to change.

But while the Tories were renouncing doctrines repugnant to public liberty, they were initiating a new principle not hitherto characteristic of their party. Respect for authority, nay, even absolute power, is compatible with enlightened progress in legislation. Great emperors, from Justinian to Napoleon, have gloried in the fame of lawgivers. But the Tory party were learning to view the amendment of our laws with distrust and aversion. In their eyes change was a political evil. Many causes concurred to favor a doctrine wholly unworthy of any school of statesmen. Tory sympathies were with the past. Men, who in the last generation would have restored the Stuarts and annulled the Revolution, had little in their creed congenial to enlightened progress. The power which they had recovered was associated with the influence of the crown and the existing polity of the state. Changes in the laws urged by opponents, and designed to restrain their own authority, were naturally resisted. Nor must the character of the men who constituted this party be forgotten. Foremost among them was the king himself, — a man of narrow intellect and intractable prejudices, without philosophy or states-

manship, and whose science of government was ever to carry out, by force or management, his own strong will. The main body of the party whom he had raised to power and taken into his confidence, consisted of country gentlemen, — types of immobility, — of the clergy, trained by their trust and calling to reverence the past; and of lawyers, guided by prescription and precedent, venerating laws which they had studied and expounded, but not aspiring to the higher philosophy of legislation. Such men, contented "*stare super antiquas vias*," dreaded every change as an innovation. In this spirit the king warned the people, in 1780, against "the hazard of innovation."[1] In the same spirit the king's friend, Mr. Rigby, in opposing Mr. Pitt's first motion for reform, "treated all innovations as dangerous theoretical experiments."[2] This doctrine was first preached during the ministry of Lord North. It was never accepted by Mr. Pitt and his more enlightened disciples, but it became an article of faith with the majority of the Tory party.

Principles tested by the American War.

The American War involved principles which rallied the two parties, and displayed their natural antagonism. It was the duty of the government to repress revolt, and to maintain the national honor. Had the Whigs been in power, they would have acknowledged this obligation. But the Tories — led by the king himself — were animated by a spirit of resentment against the colonists, which marked the characteristic principles of that party. In their eyes resistance was a crime: no violation of rights could justify or palliate rebellion. Tories of all classes were united in a cause so congenial to their common sentiments. The court, the landed gentry, and the clergy insisted, with one voice, that rebellion must be crushed, at whatever cost of blood and treasure. They were supported by a great majority of the House of Commons, and by the most influential classes in the country. The Whigs, on the other hand, asserted the first principles

[1] *Supra*, Vol. I 314 [2] Wraxall's Hist. Mem., iii. 85.

of their party in maintaining the rights of all British subjects to tax themselves by their representatives, and to resist oppression and injustice. But in their vain efforts to effect a reconciliation with America, they had a slender following in Parliament; and in the country had little support but that of the working classes, — then wholly without influence, — and of the traders, who generally supported that party, and whose interests were naturally concerned in the restoration of peace.[1]

Such were the sentiments and such the temper of the ruling party, that the leading Whigs were not without apprehension, that if America should be subdued, English liberty would be endangered.[2]

Secession of the Whigs in 1776.

Having vainly opposed and protested against the measures of the government, in November, 1776, they seceded from Parliament on American questions — desiring to leave the entire responsibility of coercion with ministers and their majority. It can scarcely be denied that their secession — like earlier examples of the same policy[3] — was a political error, if not a dereliction of duty. It is true that an important minority, constantly overborne by power and numbers, may encourage and fortify, instead of restraining, their victorious opponents. Their continued resistance may be denounced as factious, and the

[1] Lord Camden, writing to Lord Chatham, February, 1775, said: "I am grieved to observe that the landed interest is almost altogether anti-American, though the common people hold the war in abhorrence, and the merchants and tradesmen, for obvious reasons, are altogether against it." — *Chatham Corr.*, iv. 401. — "Parties were divided nearly as they had been at the end of the reign of Queen Anne: the Court and the landed gentry with a majority in the House of Commons, were with the Tories: the trading interest and popular feeling, with the Whigs." — *Lord J. Russell's Life of Fox*, i. 83.

[2] Debates on Amendments to Address, 31st Oct. 1776, &c.; Fox Mem., i. 143; Lord J. Russell's Life of Fox, i. 136; Lord Rockingham Corr., ii. 276; Walpole's Mem., iv. 125; Grenville Papers, iv. 573; Burke's Works, ii. 399.

[3] The Tory opposition had seceded in 1722, and again in 1738; Parl. Hist., x. 1323; Tindal's Hist., iv. 668; Smollett's Hist., ii. 219, 364; Coxe's Walpole, iii. 519; Marchmont Papers, ii. 190.

smallness of their numbers pointed at as evidence of the weakness of their cause. But secession is flight. The enemy is left in possession of the field. The minority confess themselves vanquished. They even abandon the hope of retrieving their fallen cause by rallying the people to their side. Nor do they escape imputations more injurious than any which persistence, under every discouragement, could bring upon them. They may be accused of sullen ill-temper, of bearing defeat with a bad grace, and of the sacrifice of public duty to private pique.

The latter charge, indeed, they could proudly disregard, if convinced that a course, conscientiously adopted, was favorable to their principles. Yet it is difficult to justify the renunciation of a public duty in times of peril, and the absolute surrender of a cause believed to be just. The Whigs escaped none of these charges; and even the dignity of a proud retirement before irresistible force was sacrificed by want of concert and united action. Mr. Fox and others returned after Christmas to oppose the suspension of the Habeas Corpus Act,[1] while many of his friends continued their secession. Hence his small party was further weakened and divided,[2] and the sole object of secession lost.[3]

The fortunes of the Whig party were now at their lowest point; and, for the present, the Tories were completely in the ascendant.[4] But the disastrous incidents of the American War, followed by hostil- The Whigs and the American War.

[1] This Act applied to persons suspected of high treason in America, or on he high seas.

[2] He mustered no more than forty-three followers on the second reading, nd thirty-three on the third reading.

[3] The Duke of Richmond, writing to Lord Rockingham, said: — "The worst, I see, has happened,— that is, the plan that was adopted has not been steadily pursued." — *Rockingham Corr.*, ii. 308; Parl. Hist., xvi. 1220.

[4] Burke, writing to Fox, 8th Oct. 1777, says: — "The Tories universally think their power and consequence involved in the success of this American business. The clergy are astonishingly warm in it, and what the Tories are when embodied and united with their natural head the Crown, and animated by the clergy, no man knows better than yourself. As to the

ities with France, could not fail to increase the influence of one party, while it discredited and humbled the other. The government was shaken to its centre; and in the summer of 1778, overtures were made to the Whigs, which would have given them the majority in a new cabinet under Lord Weymouth, on the basis of a withdrawal of the troops from America, and a vigorous prosecution of the war with France. Contrary to the advice of Mr. Fox, these overtures were rejected; and the Whigs continued their opposition to the fruitless contest with our revolted colonists.[1] A war at once so costly and so dishonorable to our arms disgusted its former supporters; and the Whigs pressed Lord North with extraordinary energy and resolution, until they finally drove him from power. Their position throughout this contest — the generous principles which they maintained, and the eloquence and courage with which they resisted the united force of the king, the ministers, and a large majority of both Houses of Parliament — went far to restore their strength and character as a party. But, on the other hand, they too often laid themselves open to the charge of upholding rebels, and encouraging the foreign enemies of their country, — a charge not soon forgotten, and successfully used to their prejudice.[2]

The democratic party.

In watching the struggles of the two great parties, another incident must not be overlooked. The American contest fanned the latent embers of democracy throughout Europe; and in England a demo-

Whigs, I think them far from extinct. They are, what they always were (except by the able use of opportunities), by far the weakest party in this country. They have not yet learned the application of their principles to the present state of things; and as to the Dissenters, the main effective part of the Whig strength, they are, to use a favorite expression of our American campaign style, 'not all in force.'" — *Burke's Works*, ix. 148.

[1] Lord J. Russell's Life of Fox, i. 193.

[2] They imprudently adopted the colors of the American army — "blue and buff" — as the insignia of their party. These well-known colors were afterwards assumed by the Fox Club and the Edinburgh Review. — *Rockingham Corr.*, ii. 276.

cratic party was founded,[1] which, a few years later, exercised an important influence upon the relations of Whigs and Tories.

The Whigs, restored to power under their firm and honest leader, Lord Rockingham, appeared, once more, in the ascendant. The king, however, had taken care that their power should be illusory, and their position insecure. Lord Rockingham was placed at the head of another coalition ministry, of which one part consisted of Whigs, and the other of the Court party, — Lord Shelburne, Lord Thurlow, Lord Ashburton, and the Duke of Grafton. In such a cabinet, divisions and distrust were unavoidable. The Whig policy, however, prevailed, and does honor to the memory of that short-lived administration.[2]

The restoration of the Whigs to power.

The death of Lord Rockingham again overthrew his party. The king selected Lord Shelburne to succeed him; and Mr. Fox, objecting to that minister as the head of the rival party in the Coalition, in whom he had no confidence, and whose good faith towards himself he had strong reasons to doubt, refused to serve under him, and retired with most of his friends.[3]

Death of Lord Rockingham, July 1st, 1782.

This was a crisis in the history of parties, whose future destinies were deeply affected by two eminent men. Had Mr. Fox arranged his differences with Lord Shelburne, his commanding talents might soon have won for himself and his party a dominant influence in the councils of the state. His retirement left Lord Shelburne master of the situation, and again disunited his own inconsiderable party. Mr. William Pitt, on his entrance into Parliament, had joined the Whigs in their opposition to Lord North.[4] He was of Whig connections and prin-

Crisis in the history of parties.

[1] Stephens' Life of Horne Tooke; Cooke's Hist. of Party, iii. 188.

[2] *Supra*, Vol. I. 61.

[3] Fox's Mem., i. 304–430; Lord J. Russell's Life of Fox, i. 321–335.

[4] Lord Stanhope's Life of Pitt, i. 50, 52.

ciples, and concurred with that party in all liberal measures His extraordinary talents at once marked him, in his early youth, as a leader of men. His sympathies were all with Lord Rockingham: he supported his government:[1] and there can be little doubt that he might have been won as a member of his party. But he was passed over when the Rockingham ministry was formed;[2] and was now secured by Lord Shelburne, as his Chancellor of the Exchequer. Henceforth the young statesman, instead of coöperating with Fox, became his successful rival; and as his fortunes were identified with the king's friends and the Tories, he was permanently alienated from the Whig connection. Who can tell what two such men, acting in concert, might have accomplished for the good of their country and the popular cause![3] Their altered relations proved a severe discomfiture to the Whigs, and a source of hope and strength to the Tories.

The Coalition.

There were now three parties, — Lord Shelburne and the Court, — Lord North and his Tory adherents, — and Mr. Fox and his Whig followers. It was plain that the first could not stand alone; and overtures were, therefore, separately made to Lord North and to Mr. Fox to strengthen the administration. The former was still to be excluded himself, but his friends were to be admitted, — a proposal not very conciliatory to the leader of a

[1] Lord Stanhope's Life of Pitt, i. 72.

[2] In an article in the Law Magazine, Feb. 1861, attributed to Lord Brougham, — on the Auckland Correspondence, — it is said, "What mischief might have been spared, both to the party and the country, had not this error been committed!"

[3] Wraxall's Mem., iii. 152, 158, 176. — "I am indeed persuaded, that if Fox had been once confirmed in office, and acceptable to the sovereign, he would have steadily repressed all democratic innovations; as, on the other hand, had Pitt passed his whole life on the opposition bench, poor, and excluded from power, I believe he would have endeavored to throw his weight into the scale of the popular representation..... It appeared to me, that Pitt had received from nature a greater mixture of republican spirit than animated his rival; but royal favor and employment softened its asperity." — *Wraxall's Mem.*, iii. 98.

party. The latter declined to join the ministry, unless Lord Shelburne resigned in favor of the Duke of Portland,[1] — a suggestion not likely to be agreeable to the premier. These overtures, consequently, failed: but Lord North, fearing a junction between Mr. Fox and Mr. Pitt, and the destruction of his own party, was inclined to listen favorably to suggestions for uniting with Mr. Fox, and overpowering the party of Lord Shelburne, to whom both were opposed. The singular coalition of these two statesmen, so long opposed in principles, in connections, and in party strife, was brought about by the arts of Lord Loughborough, Mr. Eden, Mr. Adam, Colonel Fitzpatrick, and Mr. George North.[2]

The immediate occasion of their alliance was a coincidence of opinion, adverse to the preliminaries of peace. The concessions made by Lord Shelburne to the enemy were such as fairly to provoke objections; and a casual agreement between parties otherwise opposed, was natural and legitimate. To restrain the influence of the crown was another object which Mr. Fox had much at heart; and in this also he found his facile and compliant ally not indisposed to coöperate. The main cause of their previous differences, the American war, was at an end; and both were of too generous a temper to cherish personal animosities with sullen tenacity. What Mr. Fox said finely of himself, could be affirmed with equal truth of his former rival, "*Amicitiæ sempiternæ, inimicitiæ placabiles.*" But the principles of the two parties were irreconcilable; and their sudden union could not be effected without imputations injurious to the credit of both. Nor could it be disguised that personal ambition dictated this bold stroke for power, in which principles were made to yield to interest. It was the alliance of fac-

Feb. 17th, 21st, 1783.

[1] Wraxall's Mem., iii. 252; Fox's Mem., ii. 12; Lord J. Russell's Life of Fox, i. 346.

[2] Wraxall's Mem., iii. 261; Lord Auckland's Corr., chap. i., ii.; Fox's Mem., ii. 15; Lord J. Russell's Life of Fox, i. 345; Lord Stanhope's Life of Pitt, i. 94, &c.

tions, rather than of parties; and on either side it was a grave political error. Viewed with disfavor by the most earnest of both parties, it alienated from the two leaders many of their best followers. Either party could have united with Lord Shelburne more properly than with one another. The Whigs forfeited the popularity which they had acquired in opposition. Even Wilkes and the democratic party denounced them. Courtiers and mob orators vied with one another in execrating the "infamous coalition." So long as coalitions had served to repress the Whigs, advance the Tories, and increase the personal authority of the king, they had been favored at court: but the first coalition which threatened the influence of the crown was discovered to be unprincipled and corrupt, and condemned as a political crime.[1]

Opinions concerning the coalition.

How the coalition, having triumphed for a time, was trampled under foot by the king and Mr. Pitt, has been already told.[2] It fell amidst groans and hisses; and has since been scourged, with unsparing severity, by writers of all parties. Its failure left it few friends: Lord North's followers were soon lost in the general body of Tories who supported Mr. Pitt; and Mr. Fox's party was again reduced to a powerless minority. But the errors and ruin of its leaders have brought down upon them too harsh a judgment. The confusion and intermixture of parties, which the king himself had favored, must not be forgotten. Every administration of his reign, but that of Lord North, had been a coalition; and the principles and connections of statesmen had been strangely shifting and changing. Mr. Fox, having commenced his career as a Tory, was now leader of the Whigs: Mr. Pitt, having entered Parliament as a Whig, had become leader of the Tories. The Grenvilles had coalesced with Lord Rocking-

[1] Wraxall gives an entertaining narrative of all the proceedings connected with the coalition.— *Mem.*, iii. 254–277.

[2] Vol. I. 63–80.

ham. Lord Temple had, at one time, consorted with Wilkes, and braved the king; at another, he was a stout champion of his Majesty's prerogative. Lord Shelburne and Mr. Dunning, having combined with Lord Rockingham to restrain the influence of the crown, had been converted to the policy of the court. Lord Thurlow was the inevitable chancellor of Whigs and Tories alike. Wilkes was tamed, and denied that he had ever been a Wilkite. Such being the unsettled condition of principles and parties, why was the virtuous indignation of the country reserved for Mr. Fox and Lord North alone? Courtiers were indignant because the influence of the crown was threatened: the people, scandalized by the suspicious union of two men whose invectives were still resounding in their ears, followed too readily the cry of the court. The king and his advisers gained their end; and the overthrow of the coalition insured its general condemnation. The consequent ruin of the Whigs secured the undisputed domination of the crown for the next fifty years.[1]

Mr. Pitt's ministry a coalition.

That the prejudices raised against coalitions were a pretence, was shown by the composition of Mr. Pitt's own ministry, which was scarcely less a coalition than that which he had overthrown and covered with opprobrium for their supposed sacrifice of principle and consistency. He had himself contended against Lord North, yet his government was composed of friends and associates of that minister, and of Whigs who had recently agreed with himself and Mr. Fox. And when it became doubtful whether he could hold his ground against his opponents, negotiations were entered into, by the king's authority, for

[1] Mr. Fox, writing in 1804, said: "I know this coalition is always quoted against us, because we were ultimately unsuccessful; but after all that can be said, it will be difficult to show when the power of the Whigs ever made so strong a struggle against the Crown, the Crown being thoroughly in earnest and exerting all its resources." — *Fox's Mem.*, iv. 40 Again, in 1805, he wrote: — "Without coalitions nothing can be done against the Crown; with them, God knows how little." — *Ibid.*, 102.

the reconstruction of the government on the basis of a new coalition.[1] Yet Mr. Pitt escaped the censure of those who were loudest in condemning the late coalition. Both, however, were the natural consequence of the condition of parties at that period. No one party being able to rule singly, a fusion of parties was inevitable. Lord Shelburne, unable to stand alone, had sought the alliance of each of the other parties. They had rejected his offers and united against him; and Mr. Pitt, in his weakness, was driven to the same expedient, to secure a majority. A strong party may despise coalitions; but parties divided and broken up are naturally impelled to unite; and to reprobate such unions is to condemn the principles upon which the organization of parties is founded. Members of the same party cannot agree upon all points: but their concurrence in great leading principles, and general sympathy, induce them to compromise extreme opinions, and disregard minor differences. A coalition of parties is founded upon the same basis. Men who have been opposed at another time, and upon different questions of policy, discover an agreement upon some important measures, and a common object in resisting a third party. Hence they forget former differences, and unite for the purpose of carrying out the particular policy in which they agree.

Principles of coalition.

Mr. Pitt's popularity and success, at the elections of 1784, widened the basis of the Tory party. He was supported by squires and traders, churchmen and dissenters. He had gained over the natural allies of the Whigs; and governed with the united power of the Crown, the aristocracy, and the people.[2] He had no natural connection with the party which he led, except as the

Enlarged basis of the Tory party under Mr. Pitt.

[1] Nicholls' Recoll., ii. 113; Adolphus' Hist., iv. 85; Tomline's Life of Pitt, i. 294; Ann. Reg., 1784, ch. vi.; Parl. Hist., xxiv. 472; Lord Stanhope's Life of Pitt, i. 184; *supra*, Vol. I. 74.

[2] Adolphus' Hist., iv., 115; Tomline's Life of Pitt, i. 468; Lord Stanhope's Life of Pitt, i. 211, &c.; Lord Macaulay's Biography of Pitt; Lord J. Russell's Life of Fox, ii. 92.

king's minister. He had been born and educated a Whig. He had striven to confine the influence of the crown, and enlarge the liberties of the people. But before his principles had time to ripen, he found himself the first minister of a Tory king, and the leader of the triumphant Tory party. The doctrines of that party he never accepted or avowed. If he carried them into effect, it was on the ground of expediency rather than of principle.[1] In advocating the rights of Parliament in regard to the Regency and the abatement of impeachments, he spoke the sentiments and language of the Whig school. In favoring freedom of commerce and restoring the finances, he stands out in favorable contrast with his great Whig rival, Mr. Fox, who slighted political economy and the fruitful philosophy of Adam Smith.[2] But called, at twenty-four years of age, to the practical administration of the government, — possessing unbounded power, — of a haughty and imperious temper, — and surrounded by influences congenial to authority, — who can wonder that he became alienated from popular principles? Even the growth and expansion of his powerful intellect were affected by too early an absorption in the cares of office and the practical details of business. A few more years of opposition and study, — even the training of a less eminent office in the government, — would have matured his powers, and enlarged his philosophy. Yet, notwithstanding these early trammels, he surpassed every statesman of his party in enlightenment and liberality.

[1] "His education and original connections must have given him some predilection for popular notions; and although he too often promoted measures of an opposite tendency, he was at great pains to do so, on the ground of immediate expediency rather than of principle." — *Lord Holland's Mem.*, ii. 35.

[2] Butler's Reminiscences, i. 176; Massey's Hist., iii. 281; Lord Stanhope's Life of Pitt, i. 263–273; Debates on Commercial Intercourse with Ireland in 1785; Parl. Hist., xxv., 311, 575; Pitt's Budget Speech, 1792, Parl. Hist., xxix. 816; Debates on Commercial Treaty with France, 1787, Parl. Hist., xxvi. 342, &c.; Tomline's Life of Pitt, ii. 227; Lord Stanhope's Life of Pitt, i. 315, 317, 323, ii. 141; Fox's Mem., ii. 276.

Widely different was the character of Lord Thurlow. Long in the king's most secret counsels, — his Chancellor in every administration, except the coalition, from Lord North's to Mr. Pitt's, — he had directed the movements of the king's friends, encouraged his Majesty's love of power, and supported those principles of government which found most favor in the royal mind. He was in theory, in sympathy, and in temper, the very impersonation of a Tory of that period. For some years he exercised a sway, — less potential, indeed, than that of Mr. Pitt, in the general policy of the state, — but scarcely inferior to that of the minister in influence with the king, in patronage, in court favors, and party allegiance. If Mr. Pitt was absolute master of the House of Commons, the House of Lords was the plaything of Lord Thurlow. It was not until Mr. Pitt resolved to endure no longer the intrigues, treachery, and insolent opposition of his Chancellor, that he freely enjoyed all the powers of a responsible minister.[1]

Lord Thurlow.

The Whigs, proscribed at court, and despairing of royal favor, cultivated the friendship of the Prince of Wales, who, in his first youth, warmly encouraged their personal intimacy, and espoused their cause. The social charms of such men as Fox, Sheridan, and Erskine, made their society most attractive to a young prince of ability and many accomplishments; and his early estrangement from the king and his ministers naturally threw him into the arms of the opposition. Even his vices received little reproof or discouragement from some of the gay members of the Whig party, who shared in the fashionable indulgences of that period. Young men of fashion drank deeply; and many wasted their health and fortunes at the gaming table. Some of his Whig associates — Fox and Sheridan among the number — did not affect to be the most moral or prudent men of their age; and their association with the

The Whigs and the Prince of Wales.

[1] Moore's Life of Sheridan, i. 406; Campbell's Lives of the Chancellors, v. 532, 555, 602, &c.; Lord Stanhope's Life of Pitt, ii. 148.

prince aggravated the king's repugnance to their party. How could he forgive the men whom he believed to be perverting the politics, alienating the affections, and corrupting the morals of the heir to his throne?

It was no new political phenomenon to see the court of the heir-apparent the nucleus of the opposition. It had been the unhappy lot of the Hanoverian family that every Prince of Wales had been alienated from the reigning sovereign. George I. hated his son with unnatural malignity; and the Prince, repelled from court, became the hope of the opposition.[1] Again, in the next reign, Frederick Prince of Wales, estranged from his father in domestic life, espoused the opinions and cultivated the friendship of Bolingbroke, Chesterfield, Wyndham, Cartaret, Pulteney, and other statesmen most vehemently opposed to the king's government.[2]

The Whigs being in office throughout both these reigns, the court of the heir-apparent fell naturally under the influence of the Tories. And now the first-born son of George III. was in open opposition to his father and his father's chosen ministers; and the Tories being in the ascendant at court, the Whigs took possession of Carlton House. The Prince wore the buff and blue uniform, and everywhere paraded his adherence to the Whig party. In 1784, after the Westminster election, he joined Mr. Fox's procession, gave fêtes at Carlton House in celebration of his victory, attended public dinners, and shared in other social gatherings of the party.[3]

Their alliance was still more ostensible during the king's

[1] Coxe's Walpole, i. 78, 93.

[2] Walpole's Mem. of Geo. II., i. 47; Lord Hervey's Mem., i. 235, 236, 271. 277. Hearing of their meeting at Kew, in September, 1737, the king said "They will all soon be tired of the puppy, for besides his being a scoundrel, he is such a fool, that he will talk more fiddle-faddle to them in a day than any old woman talks in a week."— *Ibid.*, 442.

[3] Lord J. Russell's Life of Fox, i. 337, &c.

illness in 1788. They openly espoused the cause of the prince, and boasted of their approaching restoration to power;[1] while the prince was actively canvassing for votes to support them in Parliament. To the Earl of Lonsdale he wrote to solicit his support as a personal favor; and all his nominees in the House of Commons, though ordinarily staunch supporters of Mr. Pitt, were found voting with Mr. Fox and the opposition.[2]

Effects of the French Revolution upon parties.

The Whigs were still a considerable party. However inferior, in numbers, to the ministerial phalanx, they were led by men of commanding talents, high rank, and social influence; their principles were popular, and they were generally united in sentiment and policy. But events were impending, which were destined to subvert the relations of parties. The momentous incidents of the French Revolution, — new and unexampled in the history of the world, — could not fail to affect deeply the minds of every class of politicians. In their early development, the democrats hailed them with enthusiasm; the Whigs with hopeful sympathy; the king and the Tories with indignation and alarm.[3] Mr. Fox foresaw the spread of liberty throughout Europe.[4] Mr. Pitt, sympathizing with freedom more than any of his party, watched the progress of events with friendly interest.[5] Mr. Burke was the first statesman who was overcome with terror. Foreseeing nothing but evil and dangers, he brought the whole force of his genius, with characteristic earnestness, to the denunciation of the French Revolution, its principles, its actors, and its consequences.[6] In his excitement against de-

[1] *Supra*, Vol. I. 149, *et seq.*

[2] Court and Cabinets of George III., ii. 64.

[3] Tomline's Life of Pitt, iii. 104: Stanhope's Life of Pitt, ii. App. xvii.

[4] Mem. of Fox, ii. 361.

[5] Tomline's Life of Pitt, iii. 118; Lord Stanhope's Life of Pitt, ii. 48, 49.

[6] Prior's Life of Burke, ii. 42; MacKnight's Life of Burke, iii. 274, *et seq.*; Burke's Correspondence, iii. 102, 183, 267, 286.—"He loved to exaggerate everything: when exasperated by the slightest opposition, even on acciden-

mocracy, he publicly renounced the generous and manly friendship of Mr. Fox, and repudiated the old associations of his party.[1]

Society was becoming separated into two opposite parties, — the friends and the foes of democracy. For a time, the Whigs were able to stand between them, — maintaining liberty, without either encouraging or fearing democracy. But their position was not long tenable. Democrats espoused parliamentary reform: their opponents confounded it with revolution. Never had there been a time so inopportune for the discussion of that question, when the Society of the Friends of the People was founded. Mr. Fox, foreseeing the misconstructions to which it would be exposed, prudently withheld his support; but it was joined by Mr. Sheridan, Mr. Erskine, Mr. Grey, Mr. Tierney, and other leading Whigs, who, for the sake of the cause they had espoused, were willing to coöperate with men of democratic opinions, and even with members of the Corresponding Society, who had enrolled themselves among the Friends of the People.[2] When Mr. Grey gave notice of his motion for reform, the tone of the debate disclosed the revulsion of feeling that was arising against popular questions, and the widening schism of the Whig party. While some of its members were not diverted from their purpose by the contact of democracy, others were repelled by it even from their traditional love of liberty. A further breach in the ranks of the opposition

Divisions among the Whigs.

April 30th, 1792.

May 21st, 1792.

tal topics of conversation, he always pushed his principles, his opinions and even his impressions of the moment, to the extreme."— *Lord Holland's Mem*, i. 7.

[1] Parl. Hist., Feb. 9, 1790, xxviii. 363, xxix. 249; Fox's Speeches, iv. 51-200; Burke's Appeal from the new to the old Whigs, *Works*, vi. 110; Lord J. Russell's Life of Fox, ii. 241-252, 273, 283, 318; Annual Register, 1791, p. 114; Lord Holland's Mem., i. 10; Lord Stanhope's Life of Pitt, ii. 91, *et seq.*; Moore's Life of Sheridan, ii. 125; MacKnight's Life of Burke, iii. 383-411.

[2] Lord Holland's Mem., i. 13; Lord J. Russell's Life of Fox, ii. 281; Life and Opinions of Earl Grey, 9-13.

was soon afterwards caused by the proclamation against seditious writings. Mr. Fox, Mr. Whitbread, and Mr. Grey condemned the proclamation, as designed to discredit the Friends of the People and to disunite the opposition.[1] On the other hand, Lord North, Lord Tichfield, Mr. Wyndham, and Mr. Powys, thought the proclamation necessary, and supported the government. Whether Mr. Pitt designed it or not, no measure could have been more effectual for dividing the Whig party.

An attempt was now made, through Mr. Dundas, Lord Loughborough, Lord Malmesbury, and the Duke of Portland, to arrange a coalition between Mr. Pitt and Mr. Fox. Both were, at this time, agreed in viewing the revolutionary excesses of France with disgust; and both were alike anxious for neutrality and peace: but the difficulties of satisfying the claims of the different parties, the violent opposition of Mr. Burke, the disunion of the Whigs, and little earnestness on either side, insured the failure of these overtures.[2] Their miscarriage had a serious influence upon the future policy of the state. The union of two such men as Mr. Pitt and Mr. Fox would have insured temperate and enlightened counsels at the most critical period in the history of Europe. But Mr. Fox, in opposition, was encouraged to coquet with democracy, and proclaim, out of season, the sovereignty of the people; while the alarmist section of the Whigs were naturally drawn closer to Mr. Pitt.

[1] Lord Holland's Mem., i. 15; Parl. Hist., xxix. 1476, 1514. Before the proclamation was issued, "Mr. Pitt sent copies of it to several members of the opposition in both Houses, requesting their advice."—*Lord Malmesbury's Diary*, June 13, 1792; Tomline's Life of Pitt, iii. 347; Lord Stanhope's Life of Pitt, ii. 156.

[2] Lord Malmesbury's Corr., ii. 425–440. Lord Colchester's Diary and Corr., i. 13. "It was the object of Mr. Pitt to separate Mr. Fox from some of his friends, and particularly from Sheridan. He wished to make him a party to a coalition between the ministry and the aristocratical branches of the Whigs. Mr. Fox, with his usual generosity, declined the offer."—*Lord Holland's Mem.*, ii. 46. Lord Campbell's Life of Lord Loughborough—Lives of Chancellors, vi. 221, *et seq.*

The advancing events of the French Revolution, — the decree of fraternity issued by the French Convention, — the execution of the king, — the breaking out of the revolutionary war, — and the extravagance of the English democrats, completed the ruin of the Whig party. In January, 1793, Lord Loughborough passed from the opposition benches to the woolsack. He was afterwards followed, in the House of Lords, by the Duke of Portland, — the acknowledged leader of the Whigs, — Lord Spencer, Lord Fitzwilliam, and Lord Carlisle; and in the Commons, by Mr. Windham, Mr. Thomas Grenville, Sir Gilbert Elliot, many of the old Whigs, and all the adherents of Lord North, who were henceforth the colleagues or firm supporters of Mr. Pitt.[1] Even Mr. Grattan and the Irish patriots sided with the government.[2] The small party which still clung to Mr. Fox numbered scarcely sixty members; and rarely mustered more than forty in a division.[3] In the Lords, Lord Derby, Lord Lansdowne, Lord Stanhope, and Lord Lauderdale, constituted nearly the entire opposition.[4] Mr. Burke, having commenced the ruin of his party, retired from Parliament when it was consummated, — to close his days in sorrow and dejection.[5]

Coalition of leading Whigs with Mr. Pitt. Jan. 28th, 1793.

The great Whig party was indeed reduced in numbers

[1] Lord Malmesbury's Corr., ii. 452; Mem. of Fox, iii. 24; Lord Holland's Mem. of the Whig Party, i. 5, 22–25; Lord Stanhope's Life of Pitt, ii. 242; Lord J. Russell's Life of Fox, ii. 309.

[2] Lord Holland's Mem., i. 73–77.

[3] Feb. 18, 1792; 44 to 270; 43 to 284 on Parl. Reform; 40, on the breaking out of the war.— *Lord Holland's Mem.*, i. 30; Parl. Hist., xxx. 59, 453, 925. They mustered 53 against the third reading of the Seditious Assembly Bill, Dec. 3, 1795; and 50 in support of Mr. Grey's motion in favo of treating for peace, Feb. 15, 1796. — *Lord Colchester's Diary*, i 12, 33: 42, on Mr. Fox's motion on the state of the nation with regard to the war, May 10, 1796. — *Ibid.*, 57.

[4] Lord Holland's Mem., i. 32. — They were soon joined by the Duke of Bedford. — *Ibid.*, 78.

[5] Prior's Life of Burke, 489; MacKnight's Life of Burke, iii. 582, 604, Lord Stanhope's Life of Pitt, ii. 243, 320, &c.; Burke's Corr., iv. 430.

and influence; but all their ablest men, except Mr. Burke and Mr. Windham, were still true to their principles. Mr. Fox was supported by Mr. Sheridan, Mr. Erskine, Mr. Grey, Mr. Whitbread, Mr. Coke of Norfolk, Mr. Lambton, Lord John, and Lord William Russell;[1] and soon received a valuable auxiliary in the person of Mr. Tierney.[2] They were powerless against ministers in divisions; but in debates their eloquence, their manly defence of constitutional liberty, and their courageous resistance to the arbitrary measures of the government, kept alive a spirit of freedom which the disastrous events of the time had nearly extinguished. And the desertion of lukewarm and timid supporters of their cause left them without restraint in expressing their liberal sentiments.[3] They received little support from the people. Standing between democracy on the one side, and the classes whom democracy had scared, and patriotism or interest attracted to the government, on the other, they had nothing to lean upon but the great principles and faith of their party.[4] Even the Prince of Wales abandoned them. His sympathies were naturally with kings and rulers, and against revolution; and renouncing his friends, he became a fickle and capricious supporter of the minister.[5] The great body of the people,

The remains of the opposition.

[1] Lord Holland's Mem., 30; Lord J. Russell's Life of Fox, ii. 324, &c.

[2] Mr. Tierney entered Parliament in 1796.

[3] Lord Holland's Mem., i. 25.

[4] Fox's Mem., iii. 35; Lord J. Russell's Life of Fox, ii. 253–324; Cooke's Hist. of Party, iii. 366–452; Life and Opinions of Earl Grey, 22.

[5] "In 1795 the Prince was offended by Mr. Pitt's arrangement for the payment of his debts out of his increased income, upon his marriage, and his support of the government was weakened."—*Lord Holland's Mem.*, i. 81.

March 28, 1797. "The Prince of Wales sat under the gallery during the whole debate (on the Bank Committee), and his friends voted in the opposition."—*Lord Colchester's Diary*, i. 88.

April 3, 1797. The Prince of Wales, not being permitted to undertake a mission to Ireland, which he had proposed, "wrote to Lord Fitzwilliam, and also to Mr. Fox, offering to put himself at the head of their party at home, and to oppose openly all measures of the present administration. They all

whom the democrats failed to gain over, recoiled from the bloodthirsty Jacobins, and took part with the government in the repression of democracy.

If such was the prostration of the Whigs, what was the towering strength of Mr. Pitt? Never had any minister been so absolute, since England had been a constitutional state, governed by the instrumentality of parties. Never had a minister united among his upporters so many different classes and parties of men. Democracy abroad had threatened religion; and the clergy — almost to a man — were with the defender of "Church and King." The laws and institutions of the realm were believed to be in danger; and the lawyers pressed forward to support the firm champion of order. Property and public credit were menaced; and proprietors of the soil, capitalists, fund-holders, confided in the strong-handed minister. The patriotism of the nation was aroused in support of a statesman, who was wielding all the resources of the state in a deadly war.

Consolidation of Mr. Pitt's party.

Such were the political causes which attracted men of all parties to the side of the minister, whose policy was accepted as national. Motives less patriotic, but equally natural, contributed to the consolidation of his power.

Many of the largest proprietors of boroughs were now detached from the Whig party, and carried over their parliamentary interest to the other side. Their defection was not met by the minister with ingratitude. They shared his influence, and were overloaded with honors, which he himself despised. Boroughs in the market also rapidly fell into the hands of the dominant party. To supporters of the government the purchase of a borough was a promising investment: to opponents it offered nothing but disappointment. The close corporations were filled with Tories, who secured the

dissuaded him from that line of conduct: but on Saturday, 25th March, Mr. Fox, Erskine, the Duke of Norfolk, &c., dined at Carlton House." — *Ibid.*, i. 94.

representation of their cities for their own party. None but zealous adherents of the government could hope for the least share of the patronage of the crown. The piety of a churchman brought him no preferment, unless his political orthodoxy was well attested. All who aspired to be prebendaries, deans, and bishops, sought Tory patrons, and professed the Tory creed. At the bar, an advocate might be learned and eloquent beyond all rivalry, eagerly sought out by clients, persuasive with juries, and overmastering judges by his intellect and erudition, — but all the prizes of his noble profession were beyond his reach, unless he enrolled himself a member of the dominant party. An ambitious man was offered the choice of the fashionable opinions of the majority, with a career of honor and distinction, — or the proscribed sentiments of a routed party, with discouragement, failure, and obscurity. Who can wonder that the bar soon made their choice, and followed the minister?

The country gentlemen formed the natural strength of the Tory party. They joined it heartily, without any inducement save their own strong convictions; but their fidelity was rewarded by a generous monarch and a grateful minister. If a man's ambition was not entirely satisfied by the paternal acres, — let him display zeal at the elections. If he would not see his rivals outstrip him in the race of life, — let him beware of lukewarmness in the Tory cause. A Whig country gentleman could rarely aspire even to the commission of the peace: a dissenter could not hope for such a trust. Ambition quickened the enthusiasm of Tories, and converted many an undecided and hesitating Whig. The moneyed classes, as we have already seen, had been gradually detached from the Whig interest, and brought over to the king and the Tories; and now they were, heart and soul, with Mr. Pitt. If the people were impoverished by his loans and war taxes, they, at least, prospered and grew rich. Such a minister was far too "good for trade" not to command their willing allegiance. A vast expenditure bound them to him; and

posterity is still paying, and will long continue to pay, the price of their support.

Another cause contributed to the depression of the Whigs. There was a social ostracism of liberal opinions, which continued far into the present century. It was not enough that every man who ventured to profess them, should be debarred from ambition in public and professional life. He was also frowned upon and shunned in the social circle. It was whispered that he was, not only a malecontent in politics, but a freethinker or infidel in religion. Loud talkers at dinner-tables, emboldened by the zeal of the company, decried his opinions, his party, and his friends. If he kept his temper, he was supposed to be overcome in argument: if he lost it, his warmth was taken as evidence of the violence of his political sentiments.[1]

Ostracism of liberal opinions.

In Scotland, the organization of the Tory party was stronger, and its principles more arbitrary and violent, than in England. All men of rank, wealth, and power, and three fourths of the people, were united in a compact body, under Mr. Dundas, the dictator of that kingdom. Power, thus concentrated, was unchecked by any popular institutions. In a country without freedom of election,[2] without independent municipalities, without a free press, without public meetings, — an intolerant majority proscribed the opposite party, in a spirit of savage persecution. All Whigs were denounced as Jacobins, shunned in society, intimidated at the bar, and ruthlessly punished for every indiscretion as public speakers, or writers in the press.[3] Their leaders were found at the bar, where several eminent men, at great sacrifice and risk, still ventured to avow their opinions, and rally the failing hopes of their party. Of these, the most remarkable in wit, in eloquence, and political cour-

Tory party in Scotland.

[1] Sydney Smith's Mem., i. 65, &c.

[2] *Supra*, Vol. I. 283.

[3] Lord Cockburn's Memorials of his Time, p. 80, 147, *et seq.*; Lord Holland's Mem., i. 240.

age, was the renowned advocate, Henry Erskine.[1] Let all honor be paid to the memory of men who, by their talents and personal character, were able to keep alive the spirit and sentiment of liberty, in the midst of a reign of terror.

Lord Cockburn thus sums up a spirited account of the state of parties under the administration of Mr. Dundas: — "With the people put down and the Whigs powerless, government was the master of nearly every individual in Scotland, but especially in Edinburgh, which was the chief seat of its influence. The infidelity of the French gave it almost all the pious; their atrocities, all the timid; rapidly increasing taxation and establishments, all the venal; the higher and middle ranks were at its command, and the people at its feet. The pulpit, the bench, the bar, the colleges, the parliamentary electors, the press, the magistracies, the local institutions, were so completely at the service of the party in power, that the idea of independence, besides being monstrous and absurd, was suppressed by a feeling of conscious ingratitude." [2]

Mr. Pitt's power dangerous to liberty.

It is one of the first uses of party to divide the governing classes, and leave one section to support the authority of the state, and the other to protect the rights of the people. But Mr. Pitt united all these classes in one irresistible phalanx of power. Loyalty and patriotism, fears and interests, welded together such a party as had never yet been created; and which, for the sake of public liberty, it is to be hoped will never again be known.

The Whigs in opposition.

Under these discouragements, the remnant of the Whig party resisted the repressive measures of Mr. Pitt,[3] and strove earnestly to promote the restoration of peace. But it was vain to contend against the

[1] He was removed from the office of Dean of the Faculty of Advocates 12th January, 1796, for presiding at a public meeting, to petition against the war with France.

[2] Memorials of his Time, 86.

[3] See *infra*, p. 167.

government. Arguments and remonstrance were unavailing: divisions merely exposed the numerical weakness of the minority; and at length, in 1798, Mr. Fox and many of his friends resolved to protest against the minister, and absolve themselves from the responsibility of his measures, by withdrawing from the debates, and seceding from Parliament. The tactics of 1776 were renewed, and with the same results. The opposition was weakened and divided; and, in the absence of its chiefs, was less formidable to ministers, and less capable of appealing with effect to public opinion. Mr. Tierney was the only man who profited by the secession. Coming to the front, he assumed the position of leader; and with great readiness and vigor, and unceasing activity, assailed every measure of the government. The secession was continued during three sessions. As a protest against the minister, it availed nothing. He was more absolute, and his opponents more insignificant, than ever.[1]

Their secession in 1798.

Mr. Pitt needed no further accession of strength; but the union with Ireland recruited his majority with an overwhelming force of Tories from the sister country. Yet, at the moment of his highest prosperity, this very union cast down the minister, and shook his party to its centre. It was far too powerful to be overthrown by the loss of such a leader; but it

Disunion of the Tory party in 1801: its effects.

[1] Lord Holland's Mem., i. 84, 101; Lord Sidmouth's Life, i. 203; Memorials of Fox, iii. 136, 137, 249. "During the whole of this Session (1799) the powerful leaders of Opposition continued to secede. Mr. Fox did not come once. Grey came and spoke once against the Union, and Sheridan opposed it in several stages. Tierney never acted with them, but maintained his own line of opposition, especially on questions of finance."—*Lord Colchester's Diary*, i. 192.

"1800. In February, Fox came upon the question of treating for peace with Bonaparte, and upon no other occasion during the session. Grey came upon the union only. Tierney attended throughout, and moved his annual finance propositions. Upon the opening of the session in November, all the Opposition came and attended regularly, except Fox."—*Ibid.*, i. 216; Lord Stanhope's Life of Pitt, iii. 41, 76, 77; Life and Opinions of Earl Grey, 49.

was divided by conflicting counsels and personal rivalries; and its relations to other parties were materially changed. Mr. Pitt's liberal views upon the Catholic question and the government of Ireland were shared by his ablest colleagues and by nearly all the Whigs; while the majority of his party, siding with the king, condemned them as dangerous to church and state. This schism was never wholly cured, and was destined, in another generation, to cause the disruption of the party. The personal differences consequent upon Mr. Pitt's retirement introduced disunion and estrangement among several of the leading men, and weakened the ties which had hitherto held the party together in a compact confederacy. Mr. Canning — brilliant, ambitious, and intriguing — despised the decorous mediocrity of Mr. Addington, derided "the Doctor" with merciless wit, ridiculed his speeches, decried his measures, and disparaged his friends.[1] With restless activity he fomented jealousies and misunderstandings between Mr. Pitt and his successor, which other circumstances concurred to aggravate, — until Mr. Pitt and his adherents were found making common cause with the Whigs against the Tory minister.[2] The Tory party was thus seriously disunited, while friendly relations were encouraged between the friends of Mr. Pitt and the Whig members of the opposition. Lord Grenville and his party now separated from Mr. Pitt, and associated themselves with the Whigs; and this accession of strength

[1] Lord Stanhope's Life of Pitt, iii. 297, 306, 320, 363, 405, 428. — *Ibid.*, iv. 58. Lord Malmesbury's Corr., iv. 375; Lord Sidmouth's Life, ii. 145, &c., 298; Stapleton's Canning and his Times, 66, *et seq.*; Rose's Mem., ii. 466, &c. "Old Lord Liverpool justly observed that Mr. Addington was laughed out of power and place in 1803 by the *beau monde*, or, as that grave old politician pronounced it, the *biu monde*."—*Lord Holland's Mem.*, ii. 211.

[2] Lord Sidmouth's Life, ii. 254, *et seq.*, 298, 301. Sir William Scott, speaking of the state of parties in 1803, said: "There could be no adjustment between the parties, from the numbers of their respective adherents; there was not pasture enough for all." Lord Malmesbury's Corr., iv. 77, 101, &c.; Lord Stanhope's Life of Pitt, iv. 21, 88, 116, 117, 139; Lord Colchester s Diary, ii. 403.

promised a revival of the influence of their party. When Mr. Pitt was recalled to power in 1804, being estranged from the king's friends and the followers of Mr. Addington, he naturally sought an alliance with Lord Grenville and the Whig leaders, whose parliamentary talents were far more important than the number of their adherents. Such an alliance was favored by the position of Lord Grenville, who, having been Mr. Pitt's Foreign Secretary, might fitly become the mediator between two parties, which, after a protracted contest, had at length found points of agreement and sympathy. The king's personal repugnance to Mr. Fox frustrated an arrangement which, by uniting the more liberal section of the Tories with the Whigs, would have constituted an enlightened party, progressive in its policy, and directed by the ablest statesmen of the age.[1] Lord Grenville, loyal to his new friends, dissevered his connection with the Tories, and associated himself with the Whigs.[2] Mr. Pitt, thus weakened, was soon obliged to make peace with Mr. Addington,[3] and to combine, once more, the scattered forces of his party. The reunion was of brief duration; and so wide was the second breach, that on the death of Mr. Pitt the Addington party were prepared to coalesce with the Whigs.[4]

This disruption of the Tory party restored the Whigs to office, for a short time, not indeed as an independent party, — for which they were far too weak, — but united with the Grenvilles, Lord Sidmouth, and the king's friends. A coalition with the liberal followers of Mr. Pitt would have been the more natural and congenial

The Whigs restored to office in 1806.

[1] *Supra*, Vol. I. 90; Lord Malmesbury's Corr., iv. 309; Rose's Corr., ii. 100; Life and Opinions of Earl Grey, 91–97, 107; Lord Holland's Mem., i. 191; Lord Stanhope's Life of Pitt, 177, *et seq.*; Lord Sidmouth's Life, ii. 370, &c.

[2] Lord Malmesbury, speaking of this secession, says: "The French proverb is here verified. 'Un bon ami vaut mieux que trois mauvais parents.' "— *Corr.*, iv. 309.

[3] He was created Viscount Sidmouth in January, 1805.

[4] Lord Holland's Mem., i. 203; Lord Sidmouth's Life, ii. 371; Rose's Corr., ii. 368.

arrangement;[1] but the peculiar relations of Lord Sidmouth to the late administration, the number of his friends, his supposed anxiety for peace, and his personal influence with the king, suggested the necessity of such an alliance. No single party could stand alone. A coalition was inevitable; and Lord Sidmouth, being estranged personally from Mr. Pitt's followers, was naturally led to associate himself with Lord Grenville and Mr. Fox; while the latter, being distasteful to the king, was glad to coöperate with the leader of the king's friends.[2] It was a coalition between men as widely opposed in political sentiments and connections as Mr. Fox and Lord North had been three-and-twenty years before; but it escaped the reproaches to which that more celebrated coalition had fallen a victim.

The signal failures of Mr. Pitt's war administration, and the weariness of the nation under constantly increasing taxation, afforded to the Whigs — who had consistently urged a more pacific policy — an opportunity of recovering some portion of their former influence and popularity. Their brief reign was signalized by the abolition of the slave-trade, and other wise and useful measures. But they had not the confidence of the king;[3] they failed even to conciliate the Prince of Wales;[4] they mismanaged the

[1] Lord Holland says: "The disunited rump of Mr. Pitt's ministry were no party, whereas Lord Sidmouth's friends, though few, formed a compact body; and if the leaders were inferior in talents to those of other political parties, their subalterns were more respectable than the clerks and secretaries of Mr. Pitt's and Lord Melville's school."—*Mem. of Whig Party*, i. 209.

[2] Life of Lord Sidmouth, ii. 423.

[3] "The king and his household were, from the beginning and throughout, hostile to the ministry."—*Lord Holland's Mem.*, ii. 68.

[4] The prince, in a letter to Lord Moira, March 30th, 1807, said:—"From the hour of Fox's death,—that friend, towards whom and in whom my attachment was unbounded,—it is known that my earnest wish was to retire from further concern and interference in public affairs." At the same time he complained of neglect on the part of the Grenville ministry,—"having been neither consulted nor considered in any one important instance;" and on the fall of that ministry, whom he had generally desired to support

elections;[1] they were weakened by the death of Mr. Fox;[2] they were unsuccessful in their negotiations for peace;[3] and fell easily before the king's displeasure and the intrigues of their opponents.[4]

The Tories reinstated, 1807.

It was now evident that the party which Mr. Pitt had raised to such greatness was not to be cast down by his death. It had been disorganized by the loss of its eminent leader, and by the estrangement of his immediate followers from Lord Sidmouth and the king's friends. It possessed no statesmen of commanding talents to inspire its disheartened members with confidence; and there were jealousies and rivalries among its ablest statesmen. But the king was its active and vigilant patron, and aided it with all the influence of the crown; while the warcries of "The Church in danger," and "No popery," were sufficient to rally all the forces of the party. Even those ministers who favored the Catholic claims were content to profit by the appeals of Mr. Perceval and his friends to the fanaticism of the people. Such appeals had, on other occa-

he "determined to resume his original purpose, sincerely prepared, in his own mind, on the death of poor Fox, to cease to be a party man." This resolution he communicated to the king.—*Lord Colchester's Diary*, ii. 115; Lord Holland's Mem., ii. 68-72, 244.—"In his letters to Earl Grey, immediately after the death of Mr. Fox, there is no trace of such feelings."—*Life and Opinions of Earl Grey*, 116.

[1] Lord Holland's Mem., ii. 93.—"The king who throughout his reign had furnished every treasury with 12,000*l.* to defray election expenses on a dissolution, withheld that unconstitutional assistance from the administration of 1806."—*Ibid.*, 94.

[2] Lord Holland says: "Had Lord Grenville in the new arrangements (after Mr. Fox's death) sought for strength in the opposite party, had he consulted the wishes of the Court, rather than his own principles and consistency, he would have conciliated the king, fixed himself permanently in office, and divested every party in the state of the means of annoying him in Parliament."—*Mem. of Whig Party*, ii. 50.

[3] Ann. Reg., 1806, ch. ix., stated by Lord Holland to have been written by Mr. Allen; Parl. Papers relating to the negotiation with France, 1806; Hans. Deb., 1st Ser., viii. 305, Jan. 5, 1807, &c.; Life and Opinions of Earl Grey, 126-138.

[4] *Supra*, Vol. I. 94, *et seq.*

sions, been a favorite device of the Tories. They had even assumed the church to be in danger on the accession of George I., as a pretence for inviting a popish pretender to the throne.[1] Mr. Pitt had fallen before the same prejudice in 1801 ; and in 1807, the Duke of Portland and Mr. Perceval proved its efficacy in restoring strength and union to their party.

Even the Dissenters, swayed by their intolerant sentiments against the Catholics, often preferred the Court and High Church candidates to the friends of religious liberty. Nor did the Whigs generally gain popular support. The crown and the great Tory nobles prevailed against them in the counties ; and more democratic candidates found favor in the populous towns.[2]

The Whigs were again routed; but they had gained strength, as an opposition, by their brief restoration to power. They were no longer a proscribed party, without hope of royal favor and public confidence. If not yet formidable in divisions against the government, their opinions were received with tolerance; and much popular support, hitherto latent, was gradually disclosed. This was especially apparent in Scotland. The impeachment of Lord Melville, the idol of the Scottish Tories, had been a severe blow to that party ; and the unwonted spectacle of their opponents actually wielding, once more the power and patronage of the state, "convinced them," — to use the words of Lord Cockburn, — "that they were not absolutely immortal."[3] Their political power, indeed, was not materially diminished ; but their spirit was tempered, and they learned to respect, with decent moderation, the rights of the minority. Lord Melville was replaced in the administration of the affairs of Scotland by his son, Mr. Robert Dundas, who, with less talents than his father,

The Whigs in opposition, 1807–1811.

[1] King's Speech, 1715; Parl. Hist., vii. 222. Romilly's Life, ii. 192.
[2] Lord Holland's Mem., ii. 227–230.
[3] Lord Cockburn's Mem., 215, 229.

brought to the office of leader of a dominant party much good sense and moderation.[1]

Younger men of the Whig party were now rising into notice, in literature and at the Scottish bar. Brougham, Francis Horner, Jeffrey, Sydney Smith, Cockburn and Murray, were destined to play a conspicuous part in the politics and literature of their age; and were already beginning to exercise an important influence upon the hopes and interests of their party. Among their most signal services was the establishment of the Edinburgh Review,[2] — a journal distinguished for the combination of the highest literary merit with enlarged views of political philosophy far in advance of its age, and an earnest, but temperate zeal for public liberty, which had been nearly trodden out of the literature of the country.[3]

The Whigs had become, once more, a great and powerful party. Abandoned a few years before by many men of the highest rank and influence, they had gradually recovered the principal Whig families. They were represented by several statesmen of commanding talents; and their numbers had been largely recruited since 1793. But they were not well led or organized; and were without concert and discipline. When Lord Howick was removed to the House of Lords by the death of his father, the rival claims of Mr. Whitbread and Lord Henry Petty brought forward Mr. Ponsonby, an Irishman, as leader of a party with whom he had little acquaintance or connection.[4] In 1809, they were further divided, by the embarrassing inquiry into the conduct of the Duke of York.[5] And for several years, there was little

[1] Lord Cockburn's Mem., 229, 230.

[2] The first number of this journal was published in October, 1802.

[3] Cockburn's Mem. of Jeffrey, i. 286; Lady Holland's Life of Sydney Smith, i. 59, *et seq.*; Cockburn's Mem. 166.

[4] Lord Holland's Mem., 236–242. Lord H. says: "Mr. Windham, Mr. Sheridan, Mr. Tierney, and Mr. T. Grenville, were from very different but obvious causes disqualified" for the lead.—*Ibid.*, 237.— Life and Opinions of Earl Grey, 174–189.

[5] *Ibid.*, 223–227, 239.

agreement between the aristocratic Whigs who followed Earl Grey, and members who acted with Mr. Whitbread or Sir Francis Burdett.[1]

Tory administrations, 1807–1812.

The administrations of the Duke of Portland and Mr. Perceval were formed upon the narrowest Tory principles. They were the governments of the king and his friends. Concessions to Catholics were resisted as dangerous to the church.[2] Repression and coercion were their specifics for insuring the safety of the state: the correction of abuses and the amendment of the laws were resisted as innovations.[3]

Lord Liverpool's administration, 1812.

On the death of Mr. Perceval, the last hopes of the Whigs, founded upon the favor of the Prince Regent, were extinguished;[4] and the Tory rule was continued as securely as ever, under Lord Liverpool; but the basis of this administration was wider and more liberal. The removal of Catholic disabilities was henceforth to be an open question. Every member of the government was free to speak and vote independently upon this important measure;[5] and the divisions to which such a constitution of the cabinet gave rise, eventually led to the dissolution of the Tory party. The domestic policy of this administration was hard and repressive.[6] It carried out, as far as was

[1] *Ibid.*, 336–338; Court and Cabinets of Geo. IV., i. 131.

[2] Mr. Perceval said: "I could not conceive a time or any change of circumstances which could render further concession to the Catholics consistent with the safety of the State."— *Hans. Deb.*, 1st Ser., xxi. 663.

[3] e. g. Mr. Bankes' Offices in Reversion bills, 1809 and 1810; Sir S Romilly's Criminal Law bills, 1810, 1811; Earl Grey's Life and Opinions 202–206.

[4] *Supra*, Vol. I. 109.

[5] It was announced by Lord Castlereagh "that the present government would not, as a government, resist discussion or concession"... "and that every member of the government would be free to act upon his own individual sentiments."—*Lord Colchester's Diary*, 10th June, 1812, ii. 387.

"Lord Sidmouth, Lord Liverpool, and Lord Eldon, would resist inquiry, meaning to resist concession; but Lord Harrowby, Lord Melville, Lord Bathurst, and Lord Mulgrave, would concede all. Vansittart would go *pedetentim*."— *Ibid.*, 403.

[6] See Chap. X.

practicable in a free state, the doctrines of absolutism. But victories and glory crowned their efforts, and increased their strength; while the Whigs, by condemning their foreign and military policy, exposed themselves to the reproach of unpatriotic sentiments, which went far to impair their popularity.

Growing weakness of the Tory party: its causes.

But notwithstanding the power of ministers, the great force of the Tory party was being gradually undermined. The king, indeed, was on their side: the House of Lords was theirs, by connection and creations: the House of Commons was theirs, by nomination and influence: the church was wholly theirs, by sentiment, interest, and gratitude. But the fidelity of their followers could not always be relied on;[1] and great changes of sentiment and social conditions were being developed in the country. The old squires were, perhaps, as faithful as ever; but their estates were being rapidly bought by wealthy capitalists, whom the war, commerce, manufactures, and the stock exchange had enriched.[2] The rising generation of country gentlemen were, at the same time, more open to the convictions and sympathies of an age which was gradually emancipating itself from the narrow political creed of their fathers.

Meanwhile commercial and manufacturing industry was rapidly accumulating large populations, drawn from the agricultural counties. Towns were continually encroaching upon the country; and everywhere the same uniform law prevailed, which associates activity and enterprise with a spirit of political progress, and social inertness with senti-

[1] See Letter of Duke of Wellington to the Duke of Buckingham, March 6th, 1822.—*Court and Cabinets of Geo. IV.*, i., 292.

[2] Lord Redesdale, writing to Lord Sidmouth, Dec. 11th, 1816, said: "Many of the old country gentlemen's families are gone, and I have no doubt that the destruction of their hereditary influence has greatly contributed to the present insubordination. . . . We are rapidly becoming — if we are not already — a nation of shopkeepers." — *Lord Sidmouth's Life*, iii. 162.

ments opposed to political change. The great industrial communities were forcing the latent seeds of democracy: the counties were still the congenial soil of Toryism. But the former were ever growing and multiplying: the latter were stationary or retrograde. Hence liberal opinions were constantly gaining ground among the people.[1]

Democratic sentiments provoked by distress.

A Tory government was slow to understand the spirit of the times, and to adapt its policy to the temper and condition of the people. The heavy burdens of the war, and the sudden cessation of the war expenditure, caused serious distress and discontent, resulting in clamors against the government, and the revival of a democratic spirit among the people. These symptoms were harshly checked by severe repressive measures, which still further alienated the people from the government; while the Whigs, by opposing the coercive policy of ministers, associated themselves with the popular cause.[2] There had generally been distrust and alienation between the democrats, or Radicals,[3] and the aristocratic Whigs. The latter had steadily maintained the principles of constitutional liberty: but had shown no favor to demagogues and visionaries.[4] But the events of 1817 and 1819 served to unite the Whigs with the democratic party, — if not in general sympathy, yet in a common cause; and they gained in weight and influence by the accession of a more popular following. Cobbett, Hunt, and other demagogues denounced them for their moderation, and scoffed at them

1817-1820.

[1] "Depuis que les travaux de l'intelligence furent devenus des sources de force et de richesses, on dut considérer chaque développement de la science, chaque connaisance nouvelle, chaque idée neuve, comme un germe de puissance, mis a la portée du peuple." — *De Tocqueville*, Democratie en Amer., i. 4.

[2] See *infra*, p. 195.

[3] In 1819, Hunt and his followers, for the first time, assumed the name of Radical Reformers. — *Lord Sidmouth's Life*, iii. 247; *Cooke's Hist. of Party*, iii. 511.

[4] Earl Grey's Life and Opinions, 242-254.

as aristocratic place-hunters:[1] mobs scouted their pretensions to liberality;[2] but the middle classes, and large numbers of reflecting people, not led by mob-orators or democratic newspapers, perceived that the position of the Whigs was favorable to the advancement of constitutional liberty, and supported them. In leaning to the popular cause, however, they were again separated from Lord Grenville and his friends, who renewed their ancient connection with the Tories.[3] Meanwhile, on the death of Mr. Ponsonby, the leadership of the opposition had at length fallen upon Mr. Tierney.[4]

Separation of the Grenvilles from the Whigs, 1817.

The popular sentiments which were aroused by the proceedings against Queen Caroline again brought the Whigs into united action with the Radicals and the great body of the people. The leading Whigs espoused her cause; and their parliamentary eminence and conspicuous talents placed them in the front of the popular movement.

The Whigs and Queen Caroline.

While the Whigs were thus becoming more closely associated with popular sentiments, a permanent change in the condition of the people was gradually increasing their influence in public affairs. Education was being rapidly extended, and all classes were growing more enlightened. The severities of successive governments had wholly failed in repressing the activity of

Increasing enlightenment of the people.

[1] See Cobbett's Register, 1818, 1819, 1820, *passim*; Edinburgh Review, June 1818, p. 198. Mr. Tierney said, Nov. 23d, 1819: "It was impossible to conceive any set of men under less obligations to the Radicals than the Whigs were. True it was that ministers came in for a share of abuse and disapprobation: but it was mild and merciful compared with the castigation which their opponents received." — *Hans. Deb.*, 1st Ser., xli. 74; Remains of Mrs. Trench, 44.

[2] See Canning's Speech on the State of the Nation — Hans. Deb., 1st Ser., xxxvi. 1423.

[3] Court and Cabinets of the Regency, ii. 347–366; Lord Sidmouth's Life, iii., 297; Life and Opinions of Earl Grey, 125, 351–384; Lord Colchester's Diary, iii. 94, 99, &c.

[4] Lord Colchester's Diary, iii. 69, &c

the press: the fear of democracy had died out: the opposition speakers and writers had widely disseminated liberal principles; and public opinion was again beginning to assert its right to be heard in the councils of the state. The Tory party could not fail to respond, in some measure, to this spirit; and the last few years of Lord Liverpool's administration were signalized by many wise and liberal measures, which marked the commencement of a new era in the annals of legislation.[1] In domestic policy, Mr. Peel and Mr Huskisson were far in advance of their party: in foreign policy, Mr. Canning burst the strait bands of an effete diplomacy, and recognized the just claims of nations, as well as the rights of sovereigns. But the political creed of the dominant party was daily becoming less in harmony with the sentiments of an enlightened people, whom the Constitution was supposed to invest with the privileges of self-government. Men like Lord Eldon were out of date; but they still ruled the country. Sentiments which, in the time of Mr. Perceval, had been accepted as wise and statesmanlike, were beginning to be ridiculed by younger men, as the drivellings of dotards; but they prevailed over the arguments of the ablest debaters and public writers of the day.

General spread of democratic sentiments.

And looking beyond the immediate causes which contributed to the growth of democratic sentiment in England, we must embrace in our more distant view the general upheaving of society throughout Europe and America, during the last fifty years. The people of the United States had established a great republic. The revolutionary spirit of France — itself, again, the result of deeper causes — had spread with epidemic subtlety over the civilized world. Ancient monarchies had been overthrown, and kings discrowned, as in a drama. The traditional reverence of the people for authority had been shaken: their idols had been cast down. Men were now taught to respect their rulers less, and themselves more: to assert their

[1] See Chap. XVIII.

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own rights and to feel their own power. In every country, — whatever its form of government,— democracy was gaining strength in society, in the press, and in the sentiments of the people. Wise governments responded to its expansive spirit: blind and bigoted rulers endeavored to repress it as sedition. Sometimes trampled down by despotism, it lay smouldering in dangerous discontent: sometimes confronted with fear and hesitation, it burst forth in revolution. But in England, harmonizing with free institutions, it merely gave strength to the popular cause, and ultimately secured the triumph of constitutional liberty. Society was at the same time acquiring a degree of freedom hitherto unknown in England. Every class had felt the weight of authority. Parents had exercised a severe discipline over their children: masters a hard rule over their workpeople: every one armed with power, from the magistrate to the beadle, had wielded it sternly. But society was gradually asserting its claims to gentler usage and higher consideration. And this social change gave a further impulse to the political sentiments of the people.

Disunion of the Tories on the death of Lord Liverpool.

While these changes were silently at work, the illness and death of Lord Liverpool suddenly dissolved the union of the great Tory party. He had represented the policy and political system of the late king and of a past generation; and his adherents in the cabinet outnumbered the advocates of more advanced principles. Mr. Canning, the member of the cabinet most eminent for his talents, and long the foremost champion of the Catholics, was now called to the head of affairs. The king did not intrust him with the power of carrying the Catholic question;[1] but his promotion was the signal for the immediate retirement of the Duke of Wellington, Lord Eldon, Mr. Peel, Lord Bathurst, Lord Melville,[2] and their

[1] Stapleton's Canning and his Times, 582.

[2] Lord Melville concurred with Mr. Canning upon the Catholic question Lord Bexley also resigned, but withdrew his resignation.

high Tory followers. Lord Palmerston, Mr. Huskisson, and Mr. Wynn remained faithful to Mr. Canning; and the accomplished Master of the Rolls, Sir John Copley, succeeded Lord Eldon, who, at length, had ceased to be one of the permanent institutions of the country. Differences of opinion upon the Catholic question were the avowed ground of this schism in the Tory party; and whatever personal considerations of ambition or jealousy may have contributed to this result, there can be no doubt that the open Catholic question, which had been the principle of Lord Liverpool's ministry, contained the seeds of disunion, rivalry, and conflict. Mr. Canning and his friends had contended in debates and divisions against their own colleagues, and had obtained the warmest support from the opposition. And now the personal pretensions and the cause of the first minister, alike repelled that section of his colleagues, who had adopted a narrower policy than his own.[1]

Mr. Canning supported by the Whigs.

The same causes naturally attracted to Mr. Canning the friendly support of the Whigs. They differed with him upon the subject of parliamentary reform, and the repeal of the Test Act; but had long fought by his side on behalf of the Catholics: they approved his liberal foreign policy, and hailed his separation from the high Tory connection, as a happy augury of good government, upon enlarged and generous principles. An immediate coalition was not desirable, and was discountenanced by Earl Grey and other Whig leaders; but the cabinet was soon joined by Lord Lansdowne, Lord Carlisle, and Mr. Tierney; while the Whigs, as a body, waited to defend him against the acrimonious attacks of the Tory seceders.[2] Such was the commencement of that union between the

[1] Stapleton's Political Life of Canning, iii. 324; George Canning and his Times, 590; Twiss's Life of Lord Eldon, ii. 586; Hans. Deb., May 2d, 1827, 2d Ser., xvii. 448–498; Lord Colchester's Diary, iii. 484, 493, &c. Plumer Ward's Mem., ii. 167.

[2] Stapleton's Political Life of Canning, iii. 337–345, 348, *et seq.*, 388 *et seq.*

liberal Tories and the Whigs, which was destined to lead to the most important political consequences.

In a few months, Mr. Canning was snatched from the scene of his glory and his trials.[1] His old friends and associates had become his bitterest foes: his new allies, however sincere, were estranged from him by their connections, by a life-long parliamentary opposition, and by fundamental differences of opinion. His broken health succumbed to the harassing difficulties of his position. Had he lived, he might have surmounted them. Mutual concessions might have consolidated a powerful and enlightened party, under his guidance. But what his commanding talents might possibly have accomplished, was beyond the reach of his successor, Lord Goderich. That nobleman, — after a provisional rule of five months, — unable to reconcile the claims and pretensions of the two parties, resigned his hopeless office.[2] The complete union of the Whigs with the friends of Mr. Canning was soon to be accomplished: but was reserved for a more auspicious period.

Divisions of parties after Mr. Canning's death.

The resignation of Lord Goderich was followed by the immediate revival of the old Tory party, under the Duke of Wellington. The formation of such a ministry was a startling retrogression. A military premier, surrounded by his companions in arms and by the narrowest school of Tory politicians, could not fail to disappoint those who had seen with hope the dawn of better days, under Mr. Canning.[3] At first, indeed, the Duke had the aid of Lord Palmerston, Mr. Huskisson, and other friends

Duke of Wellington Premier.

[1] August 8th, 1827

[2] Lord Colchester's Diary, iii. 527.

[3] Mr. T. Grenville, writing to the Duke of Buckingham, Sept. 9, 1828, says: "My original objections to the formation of a government concocted out of the Army List and the Ultra-Tories, are quite insuperable on constitutional principles alone: neither is there any instance since the Revolution of any government so adverse, in its formation, to all the free principles and practice of our Constitution." — *Court and Cabinets of Geo. IV.*, ii 280.

of Mr. Canning;[1] but the general character of the ministry was ultra-Tory; and within a few months, all the Liberal members seceded.[2] It was too late, however, for an effete school to prevail over principles of liberty and justice; and its temporary revival served to precipitate its final overthrow.

Repeal of Corporation and Test Acts, Feb. 26th, 1828.

The first assault upon the stronghold of the Tory party was led by Lord John Russell, who carried against the government his motion for a Bill to repeal the Corporation and Test Acts. The Duke, once fairly overcome, retreated from his position, and suffered the Bill to pass through both Houses, amid the execrations of Lord Eldon, Lord Winchelsea, and the ultra-Tories.[3]

Catholic emancipation viewed in reference to party.

Ireland was the Duke's next difficulty. Affairs in that country had, at length, reached a crisis which demanded present concessions or a resort to the sword.[4] The narrow policy of ministers could not longer be maintained; and they preferred their duty to the state to the obligations of party. To the consternation of the Tories, the leaders whom they trusted suddenly resolved upon the immediate removal of the civil disabilities of the Catholics. The Duke and Mr. Peel were, doubtless, induced to renounce the faith which had gained them the confidence of their party, by a patriotic desire to avert civil war; but how could they hope to be judged by their followers, their opponents, and the people? Tories who conscientiously believed that the church, and the Protestant Constitution of their ancestors were about to be sacrificed to political expediency, loudly complained that they had been betrayed, and their citadel treacherously surrendered to the enemy. Never had party-spirit been inflamed

[1] As first constituted, the administration comprised a majority favorable to the Catholic claims, viz, seven for and six against them. — *Lord Colchester's Diary*, iii. 535.

[2] See *supra*, Vol. I. 329.

[3] See *infra*, p. 367.

[4] See *infra*, p. 371.

to a higher pitch of bitterness and exasperation. The great body of the Tories, — sullen, indignant, and revengeful, — were wholly alienated from their leaders. Men who had no sympathy with that party, could not deny that their complaints were well founded. According to all the ethics of party, they had been wronged, and were absolved from further allegiance.[1]

Ministers were charged with sinning against political morality, in another form. The Whigs and followers of Mr. Canning, allowing their tardy resolution to be wise and statesmanlike, asked if they were the men to carry it into execution? If they were convinced that the position they had held so stubbornly could no longer be defended, should they not have capitulated, and surrendered the fortress to the besieging force? If a just and conciliatory policy was, at length, to be adopted, the principles of the opposition had prevailed; and to that party should be confided the honorable privilege of consummating the labors of a political life. Men who had maintained power for thirty years, by deferring to the prejudices of their party, were not entitled to its continuance, when they had accepted the policy of the opposition. If the Catholics were to be emancipated, they should owe their privileges to their own steady friends, and not to their oppressors.[2] Nor was this opinion confined to the opposition. The Tories themselves, — fiercely as they condemned the conversion of their leaders, — condemned no less fiercely their retention of office.[3] Had ministers re-

[1] Hans. Deb, Sess. 1829, *passim*; Ann. Reg., 1829, ch. i.–iv.; Letter of Duke of Wellington to Duke of Buckingham, April 21st, 1829; Court and Cabinets of Geo. IV., ii. 397.

[2] Mr. Peel freely acknowledged that the measure was due to the efforts of the opposition. He said: "The credit belongs to others, and not to me: it belongs to Mr. Fox, to Mr. Grattan, to Mr. Plunket, — to the gentlemen opposite, and to an illustrious and right hon. friend of mine, who is now no more. By their efforts, in spite of every opposition, it has proved victorious." — *Hans. Deb.*, 2d Ser., xx. 1289; Guizot's Life of Peel, 39.

[3] Hans. Deb., 2d Ser., xx. 1119, 1163, 1263; Twiss's Life of Lord Eldon, iii. 73.

signed, the united body of Tories might have shown a formidable front against a Whig government, though aided by the Tory supporters of the Catholic cause; but they were powerless against their own leaders, who retained the entire influence of the government, and could further rely upon the support of the opposition.

The friends of Mr. Canning observed that two years ago, the Duke of Wellington and Mr. Peel had refused to serve with that eminent man, lest they should give countenance to the Catholic claims, and had pursued him with relentless hostility. And now these very men were engaged in carrying a measure which Mr. Canning himself would have been restrained, by the conditions under which he took office, from promoting.[1]

Men of all parties looked with astonishment at the sudden abandonment, by ministers, of the distinctive principles of their party. Some doubted the honesty of their former professions: others deplored an inconsistency which had shaken the confidence of the people in the character and statesmanship of public men. All saw plainly that the Tory party could not long survive the shock. The question which had first broken the consolidated strength of that party in 1801, and had continued to divide and weaken it, throughout the regency and the reign of George IV., had at length shattered it to pieces. The Catholic Relief Bill was passed; but time did not abate the resentment of the Tories. Henceforth the government were kept in power by the friendly support of the opposition, who, at the same time, prepared the way for their own eventual accession, by the advocacy of economie and parliamentary reform, the exposure of abuses, and the assertion of popular principles.

The Whigs restored to power in 1830.

In 1830, the ministers, thus weakened and discredited, were forced, by the death of George IV., to appeal to the people;—when their own unpopularity, the

[1] Hans. Deb., 2d Ser., xxi. 221; Stapleton's Political Life of Canning, iii. 460; Quarterly Review, vol. xliv. 286.

resentment or coolness of their friends, the increased activity and spirit of the Whigs and Radical Reformers, popular discontents at home, and revolutions abroad, combined further to disturb the ministerial majority at the elections.[1] The Duke of Wellington's imprudent handling of the question of parliamentary reform speedily completed his ruin.[2] He fell; and at length the Whigs were restored to power, at a time most favorable to the triumph of their principles, and the consolidation of their strength. The ministry of Earl Grey comprised the most eminent Whigs, together with the adherents of Mr. Canning, who had separated from the Duke of Wellington, and were now united with the reformers. This union was natural; and it was permanent. Its seeds had been sown in 1801, when differences first arose amongst the Tories: it had grown throughout the administration of Lord Liverpool: it had ripened under Mr. Canning; and had been forced into maturity by the new impulse of reform.

Union of the Whigs with the people.

The time was also propitious for enlisting on the side of the Whigs the general support of the people. Hitherto they had fallen, as an aristocratic party, between the dominant Tories on one side, and the clamorous Radicals on the other. Notwithstanding the popularity of their principles, they had derived little support from democracy. On the contrary, democracy had too often weakened their natural influence, and discredited their efforts in the cause of liberty. But now the popular voice demanded a measure of parliamentary reform; and the reform ministry became at once the leaders of the people Even democracy, — hitherto the terror of every government, — was now the turbulent and dangerous, but irresistible ally of the king's ministers. Such was the popular ferment, that it was even able to overcome the close electoral system of

[1] *Supra*, Vol. I. 331, Edinb. Rev vol. li. 574; Courts and Cabinets of Will. IV. and Queen Victoria, i. 45, 47, 77, 85, 143.

[2] *Supra*, Vol. I. 331.

the unreformed Parliament. The Tories, indeed, forgetting their recent differences, were suddenly reunited by the sense of a common danger. The utter annihilation of their power was threatened; and they boldly strove to maintain their ground. But they were routed and overthrown. The ascendency of landlords in counties, the local influence of patrons in boroughs, were overborne by the determined cry for reform; and the dissolution of 1831, when none of the old electoral abuses had yet been corrected, secured a large majority for ministers in the House of Commons. The dissolution of 1832, under the new franchises of the Reform Acts, completed their triumph. Sad was the present downfall of the Tories. In the first reformed Parliament they numbered less than one hundred and fifty.[1] The condition of the Whigs in 1793 had scarcely been more hopeless. Their majority in the House of Lords was, indeed, unshaken; but it served merely to harass and hold in check their opponents. To conquer with such a force alone, was out of the question.

Ascendency of the Whigs after the Reform Act.

The two first years after the Reform Act formed the most glorious period in the annals of the Whig party. Their principles had prevailed: they were once more paramount in the councils of the state; and they used their newly acquired power in forwarding the noblest legislative measures which have ever done honor to the British Parliament. Slavery was abolished: the commeree of the East thrown open: the church in Ireland reformed: the social peril of the poor-laws averted.

State of parties after the Reform Act.

But already, in the midst of their successes, their influence and popularity were subsiding; and new embarrassments were arising out of the altered relations of parties. While they were still fighting the battle of reform, all sections of reformers united

[1] In 1834, Sir R. Peel said one hundred and thirty only. — *Hans. Deb.*, 3d Ser., xxvi. 293. It appears from statistics of the old and new Parliaments, in Courts and Cabinets of Will. IV. and Queen Victoria, that there were 149 Conservatives against 509 Reformers of all descriptions, ii. 26.

to support them. Their differences were sunk in that great contest. But when the first enthusiasm of victory was over, they displayed themselves in stronger relief than ever. The alliance of the Whigs with democracy could not be permanent; and, for the first time, democracy was now represented in Parliament. The radical reformers, or Radicals, long known as an active party in the country, had at length gained a footing in the House of Commons, where they had about fifty representatives.[1] Without organization or unity of purpose, and with little confidence in one another, they were often found in combination against the government. And in addition to this body, the great towns recently enfranchised, and places suddenly released from the thraldom of patrons and close corporations, had returned a new class of reformers, having little sympathy with the old Whigs. These men had sprung from a different source: they had no connection with the aristocracy, and no respect for the traditions of the constitutional Whig party. Their political views were founded upon principles more democratic; and experience of the difficulties, restraints, and compromises of public affairs had not yet taught them moderation. They expected to gather, at once, all the fruits of an improved representation; and were intolerant of delay. They ignored the obstacles to practical legislation. The non-conformist element was strong amongst them; and they were eager for the immediate redress of every grievance which Dissenters had suffered from the polity of a dominant church. On the other hand, Earl Grey and his older aristocratic associates recoiled from any contact with democracy. The great object of their lives had been accomplished. They had perfected the Constitution, according to their own conceptions; they looked back with trembling upon the perils through which it had recently passed; and dreaded the rough spirit of their restless allies, who — without veneration for the past, or mis-

[1] Edinb. Rev., July, 1837, p. 270; Bulwer's England and the English ii. 261; Guizot's Life of Peel, 67.

givings as to the future — were already clamoring for further changes in church and state. His younger and more hopeful colleagues had faith in the vital energies of the Constitution, and in its power of self-adaptation to every political and social change. They were prepared to take the lead, as statesmen, in furthering a comprehensive policy, in harmony with the spirit of the times; but they desired to consummate it on safe principles, with a prudent regard to public opinion, the means at their disposal, and the opposition to be overcome.[1] Such has ever been the policy of wise statesmen, in our balanced Constitution. None but despots or democrats expect instant submission to their will. Liberty not only tolerates, but respects the independent judgment of all free citizens.

The social pretensions of these two sections of the Liberal party were not less distinct than their political sentiments. The Whigs formed an aristocracy of great families, exclusive in their habits and associations, and representing the tastes of the old *régime*. The new men, speaking the dialect of Lancashire and the West Riding, — with the rough manners of the mill and the counting-house, and wearing the unfashionable garb of the provinces, — were no congenial associates for the high-bred politicians, who sought their votes, but not their company. These men, and their families, — even less presentable than themselves, — found no welcome to the gay saloons of the courtly Whigs: but were severed,

[1] The policy of the Whigs, as distinguished from the impatient tactics of the Radicals, was well expressed by Lord Durham, an advanced member of their party, in a letter to the electors of North Durham, in 1837. He announced his determination never to force his measures "peremptorily and dogmatically on the consideration of the government or the Parliament. If they are (as in my conscience I believe them to be) useful and salutary measures, — for they are based on the most implicit confidence in the loyalty and good feeling of the people, — the course of events and the experience of every day will remove the objections and prejudices which may now exist, and insure their adoption whenever they are recommended by the deliberate and determined voice of the people." — *Edinb. Rev.* July 1837, p. 282.

by an impassable gulf, from the real rulers of the people, whose ambition they promoted, but could not hope to share. The Whigs held all the offices, and engrossed every distinction which public service and aristocratic connections confer. The Radicals, while supporting the government against the Tories, were in no better position than that of a despised opposition. A hearty union between men with sentiments, habits, and fortunes so diverse, was not to be expected, and jealousies and distrust were soon apparent in every debate, and disagreement in every division.[1]

A further element of discord among the ministerial ranks was found in the Irish party, under the leadership of Mr. O'Connell. They were reformers, indeed, and opposed to the persons and policy of the Tories; but no sooner did the government adopt coercive measures for the maintenance of peace in Ireland, than Mr. O'Connell denounced them as "bloody and brutal;" and scourged the Whigs more fiercely than he had assailed the opponents of Catholic emancipation.[2] The Irish party.

After the Union, the members representing Ireland had generally ranged themselves on either side, according to their several political divisions. Some were returned by the influence of great Whig land-owners; but the large majority belonged to the Protestant and Orange connection, and supported successive Tory administrations. The priests and the Catholic Association wrested, for a time, from the Protestant landlords their accustomed domination, in some of the counties; but the disfranchisement of the 40*s.* freeholders in 1829 restored it. Soon, however, the Catholic Relief Act, followed by an enlarged representation, overthrew the Tory party in Ireland, and secured a majority for the Whigs and reformers.

But these men represented another country, and distinct

[1] Ann. Reg., 1833, pp. 32, 70, 111; Roebuck's Hist. of the Whig Ministry, ii. 407–409; Courts and Cabinets of Will. IV. and Vict., ii. 45-47.

[2] Debate on the Address, Feb. 5th, 1833; Hans. Deb., 3d Ser. xv. 148.

interests, sympathies, and passions. They could not be reckoned upon, as members of the Liberal party. Upon several measures affecting Ireland, they were hotly opposed to government; on other questions they were in close alliance with the Radicals. In the struggles of the English parties, they sometimes voted with the reformers; were often absent from divisions, or forthcoming only in answer to pressing solicitations: on some occasions, they even voted with the Tories. The attitude and tactics of this party were fraught with embarrassment to Lord Grey and succeeding ministers; and when parties became more evenly balanced, were a serious obstacle to parliamentary government. When they opposed ministers, their hostility was often dangerous; when they were appeased and satisfied, ministers were accused of truckling to Mr. O'Connell.

Revival of the Tory party.

While the Liberal party were thus divided, their opponents were united and full of hope. A few old Tories still distrusted their leaders; but the promise of future triumphs to their party, hatred of the Whigs, and fear of the Radicals, went far to efface the memory of their wrongs. However small the numbers of the Tory party in the House of Commons, they were rapidly recovering their local influence, which the reform crisis had overcome. Their nomination boroughs, indeed, were lost; the close and corrupt organization by which they had formerly maintained their supremacy was broken up; but the great confederation of rank, property, influence, and numbers was in full vigor. The land, the church, the law, were still the strongholds of the party; but having lost the means of controlling the representation, they were forced to appeal to the people for support. They readily responded to the spirit of the times. It was now too late to rely upon the distinctive principles of their party, which had been renounced by themselves or repudiated by the people. It was a period of intelligence and progress; and they were prepared to contend with their rivals in the race of improvement.

But to secure popular support, it was necessary to divest themselves of the discredited name of Tories. It was a name of reproach, as it had been 150 years before; and they renounced it. Henceforth they adroitly adopted the title of "Conservatives;" and proclaimed their mission to be the maintenance of the Constitution against the inroads of democracy. Accepting recent changes, as the irrevocable will of Parliament and the country, they were prepared to rule in the spirit of a more popular Constitution. They were ready to improve institutions, but not to destroy or reconstruct them.[1]

They become Conservatives.

The position which they now assumed was well suited to the temper of the times. Assured of the support of the old Tory party, they gained new recruits through a dread of democracy, which the activity of the Radicals encouraged. At the same time, by yielding to the impulses of a progressive age, they conciliated earnest and ardent minds, which would have recoiled from the narrow principles of the old Tory school.

Meanwhile the difficulties of the Whigs were increasing. In May, 1834, the cabinet was nearly broken up by the retirement of Mr. Stanley, Sir J. Graham, the Duke of Richmond, and the Earl of Ripon, on the question of dealing with the revenues of the Church in Ireland. The causes of this disunion favored the approach of the seceding members of the cabinet to the Conservative party. They immediately crossed over to the opposition benches; and though accompanied by a very small body of adherents, their eminent talents and character promised much future advantage to the Conservative party. In July, the government was dissolved by the resignation of Earl Grey; and the Reform ministry was no more.

Breaking up of Lord Grey's ministry.

[1] In his Address to the Electors of Tamworth, Sir Robert Peel stated that he "considered the Reform Bill a final and irrevocable settlement of a great constitutional question, — a settlement which no friend to the peace and welfare of this country would attempt to disturb, either by direct or by insidious means." — *Ann. Reg.*, 1834, p. 341; Guizot's Life of Peel, 60-66.

Sir Robert Peel's short ministry, 1834-35.

Lord Melbourne's ministry, still further estranged from the Radicals, were losing ground and public confidence, when they were suddenly dismissed by William IV.[1] This precipitate and ill-advised measure reunited the various sections of the liberal party into an overwhelming opposition. Sir Robert Peel vainly endeavored to disarm them, and to propitiate the good will of the people, by promising ample measures of reform.[2] He went so far in this direction, that the old school of Tories began to foresee alarming consequences in his policy;[3] but his opponents recognized the old Tory party in disguise, — the same persons, the same instincts, and the same traditions. They would not suffer the fruits of their recent victory to be wrested from them by the king, and by the men who had resisted, to the utmost, the extension of parliamentary representation. His ministry was even distrusted by Lord Stanley[4] and Sir James Graham, who, though separated from the reformers, were not yet prepared to unite their fortunes with the untried Conservatives.

State of parties under Lord Melbourne.

Sir Robert Peel strengthened his minority by a dissolution;[5] but was speedily crushed by the united forces of the opposition; and Lord Melbourne was restored to power. His second administration

[1] *Supra*, Vol. I. 125.

[2] In his Address to the Electors of Tamworth, he said that he was prepared to adopt the spirit of the Reform Act by a "careful review of institutions, civil and ecclesiastical, undertaken in a friendly temper, combining with the firm maintenance of established rights the correction of proved abuses and the redress of real grievances." He also promised a fair consideration to municipal reform, the question of church rates, and other measures affecting the Church and Dissenters. — *Ann. Reg.*, 1834, p. 339.

[3] Lord Eldon wrote, in March, 1835, the new ministers, "if they do not at present go to the full length to which the others were going, will at least make so many important changes in Church and State that nobody can guess how far the precedents they establish may lead to changes of a very formidable kind hereafter." — *Twiss's Life of Lord Eldon*, iii. 244.

[4] By the death of his grandfather in Oct. 1834, he had become Lord Stanley.

[5] Before the dissolution, his followers in the House of Commons num

was again exclusively Whig, with the single exception of Mr. Poulett Thomson, who, holding opinions somewhat more advanced, was supposed to represent the Radical party in the cabinet. The Whigs and Radicals were as far asunder as ever; but their differences were veiled under the comprehensive title of the "Liberal party," which served at once to contrast them with the Conservatives, and to unite under one standard the forces of Lord Melbourne, the English Radicals, and the Irish followers of Mr. O'Connell.

During the next six years, the two latter sections of the party continued to urge organic changes, which were resisted alike by Whigs and Conservatives. Meanwhile, Chartism in England, and the repeal agitation in Ireland, increased that instinctive dread of democracy which, for the last fifty years, had strengthened the hands of the Tory party. Ministers labored earnestly to reform political and social abuses. They strengthened the Church, both in England and Ireland, by the commutation of tithes: they conciliated the Dissenters by a liberal settlement of their claims to religious liberty: they established municipal self-government throughout the United Kingdom. But, placed between the Radicals on one side and the Conservatives on the other, their position was one of continual embarrassment.[1] When they inclined towards the Radicals, they were accused of favoring democracy: when they resisted assaults upon the House of Lords, the Bishops, the Church, and the Constitution, they

bered less than 150; in the New Parliament, they exceeded 250; and the support he received from others, who desired to give him a fair trial, swelled this minority to very formidable dimensions. On the election of Speaker, he was beaten by ten votes only; on the Address, by seven; and on the decisive division, upon the appropriation of the surplus revenues of the Irish Church, by thirty-three. — *Hans. Deb.*, 3d. Ser. xxvi. 224, 425, &c.; *Ibid.*, xxvii. 770; Courts and Cab. of Will. IV. and Vict., ii. 161; Guizot's Life of Peel, 72.

[1] The relative numbers of the different parties, in 1837, have been thus computed: — Whigs, 152; Liberals, 100; Radicals, 80 = 332. Tories, 139; Ultra-Tories, 100; Conservatives, 80 = 319. — *Courts and Cabinets of Will. IV. and Vict.*, ii. 253.

were denounced by their own extreme followers, as Tories. Nay, so much was their resistance to further constitutional changes resented, that sometimes Radicals were found joining the opposition forces in a division;[1] and Conservative candidates were preferred to Whigs, by Radical and Chartist electors. The liberal measures of the government were accepted without grace, or fair acknowledgment; and when they fell short of the extreme Radical standard, were reviled as worthless.[2] It was their useful but thankless office to act as mediators between extreme opinions and parties, which would otherwise have been brought into perilous conflict.[3] But however important to the interests of the state, it sacrificed the popularity and influence of the party.

Conservative reaction.

Meanwhile the Conservatives, throughout the country, were busy in reconstructing their party. Their organization was excellent: their agents were zealous and active; and the registration courts attested their growing numbers and confidence.[4]

There were diversities of opinion among different sections of this party, — scarcely less marked than those which characterized the ministerial ranks, — but they were lost sight of, for a time, in the activity of a combined opposition to the government. There were ultra-Tories, ultra-Protestants, and Orangemen, who had not forgiven the leaders by whom they had been betrayed in 1829. There were unyielding politicians who remembered, with distrust, the liberal policy of Sir Robert Peel in 1835, and disapproved the tolerant spirit in which he had since met the Whig measures affect-

[1] Edinb. Rev., April, 1840, 283.

[2] *Ibid.*, p. 284.

[3] Bulwer says: "They clumsily attempted what Machiavel has termed the finest masterpiece in political science, — 'to content the people and to manage the nobles.'" — *England and the English*, ii. 271. But, in truth, their principles and their position alike dictated a middle course.

[4] Sir R. Peel, at a dinner in Merchant Taylor's Hall, in May, 1838, raised the not very exalted, but extremely practical cry of "register, register, register," which was responded to by electioneering agents with the utmost alacrity.

ing the Established Church and Dissenters.[1] The leaders were appealing to the judgment and sentiments of the people, while many of their adherents were still true to the ancient traditions of their party.

But these diversities, so far from weakening the Conservatives while in opposition, served to increase their strength, by favoring the interests, prejudices, and hopes of various classes. Men who would have repealed the Catholic Relief Act, and withheld the grant for Maynooth; who deemed the Church in danger from the aggressions of Dissenters; who regarded protection to native industry as the cardinal maxim of political economy; who saw in progress nothing but democracy, — were united with men who believed that the safety of the Church was compatible with the widest toleration of Catholics and Dissenters, that liberty would ward off democracy, and that native industry would flourish under free trade. All these men, having a common enemy, were, as yet, united; but their divergences of opinion were soon to be made manifest.[2]

Sir Robert Peel's second ministry, 1841.

Before the dissolution of 1841, they had become more than a match for the ministry; and having gained a considerable majority at the elections, they were again restored to power, under the masterly leadership of Sir Robert Peel. Such were the disrepute and unpopularity into which the Whigs had fallen, that Sir Robert Peel commenced his labors with prospects more hopeful than those of any minister since Mr. Pitt. He was now joined by Lord Stanley, Sir James Graham, and the Earl of Ripon, — seceders from the reform ministry of Earl Grey. He combined in his cabinet men who retained the confidence of the old Tory school, and men who gave promise of a policy as liberal and progressive as the Whigs had

[1] Edinb. Rev., April, 1840, p. 288; Ann. Reg., 1840, pp 64, 71.

[2] A reviewer treating in April, 1840, of Sir Robert Peel and his party, said: "His ostracism may be distant, but to us it appears to be certain." — *Edinb. Rev.*, April, 1840, p. 313.

ever professed. He was himself prepared for measures of wisdom, and the highest statesmanship; but such was the constitution of his party, and such the state of the country, that his policy was soon destined to destroy his own power, and annihilate his party.

His free-trade policy.

During the late elections, a fixed duty on corn had been advocated by the Whigs, and free trade, on a more extended scale, by the Corn-law League and many liberal supporters of Lord Melbourne's government. The Conservatives, as a body, had denounced the impolicy of these measures, and claimed protection for native industry.[1] Their main strength was derived from the agricultural classes, who regarded any relaxation of the protective system as fatal to their interests. The Conservatives had taken issue with the Liberal party, on the policy of protection, and had triumphed. But the necessities of the country, and more advanced political science, were demanding increased supplies of food, and an enlarged field for commerce and the employment of labor. These were wants which no class or party, however powerful, could long withstand; and Sir Robert Peel, with the foresight of a statesman, perceived that by gradually adopting the principles of commercial freedom, he could retrieve the finances, and develop the wealth and industry of his country. Such a policy being repugnant to the feelings and supposed interests of his party, and not yet fully accepted by public opinion, — he was obliged to initiate it with caution. The dangers of his path were shown by the resignation of the Duke of Buckingham, — the representative of the agricultural interest, — before the new policy had been announced. In 1842, the

[1] "Sir Robert Peel solicited and obtained the confidence of the country in the general election of 1841, as against the whole free-trade policy embodied in the Whig budget of that year." .... "This budget, so scorned, so vilified, that it became the death-warrant of its authors, was destined, as it turned out, to be not the trophy, but the equipment of its conquerors,— as the Indian, after a victory, dresses himself in the bloody scalp of his adversary."— *Quarterly Rev.*, Sept., 1846, p. 564.

minister maintained the sliding scale of duties upon corn but relaxed its prohibitory operation. His bold revision of the customs' tariff in the same year, and the passing of the Canada Corn Bill in 1843, showed how little his views were in harmony with the sentiments of his party. They already distrusted his fidelity to protectionist principles; while they viewed with alarm the rapid progress of the Corn-law League, and the successful agitation for the repeal of the corn laws, to which he offered a dubious resistance.[1] In 1845, the policy of free trade was again advanced by a further revision of the tariff. The suspicions of the protectionists were then expressed more loudly. Mr. Disraeli declared protection to be in "the same condition that Protestantism was in 1828;" and expressed his belief "that a Conservative government was an organized hypocrisy."[2]

Repeal of the Corn Laws.

The bad harvest of this year, and the failure of the potato crop, precipitated a crisis which the Corn-law League and public opinion must erelong have brought about; and, in December, Sir Robert Peel proposed to his colleagues the immediate repeal of the corn laws. It was not to be expected that a ministry, representing the landed interest, should at once adopt a policy repugnant to their pledges and party faith. They dissented from the advice of their leader, and he resigned.[3] Lord John Russell, who had recently declared himself a convert to the repeal of the corn laws,[4] was commissioned by Her Majesty to form a government; but failed in the attempt; when Sir Robert Peel, supported by all his colleagues except Lord Stanley,[5]

[1] Lord Palmerston's speech, Aug. 10th, 1842; Hans. Deb., 3d Ser., lxv. 1230; Lord Stanhope; *Ibid.*, lxx. 578; Guizot's Life of Peel, 107, 125, 226.

[2] Hans. Deb., 3d Ser., lxxviii. 1028; Disraeli's Lord G. Bentinck, 7; Guizot's Life of Peel, 235–240.

[3] Hans. Deb., 3d Ser., lxxxiii. 39; Peel's Mem., ii. 182–226; Disraeli's Lord G. Bentinck, 21–31.

[4] Letter to the Electors of London, Nov. 22d, 1845; Peel's Mem., ii. 175.

[5] Peel's Mem., ii. 226–251; Disraeli's Lord G. Bentinck, 30. Lord Wharncliffe died the day before Sir R. Peel's return to office. Ann. Reg., 1845, Chron. 320.

resumed office; and ventured, in the face of a protectionist Parliament, wholly to abandon the policy of protection.[1]

Sir Robert Peel's relations with his party.

As a statesman, Sir Robert Peel was entitled to the gratitude of his country. No other man could then have passed this vital measure, for which he sacrificed the confidence of followers and the attachment of friends. But, as the leader of a party, he was unfaithful and disloyal. The events of 1829 were repeated in 1846. The parallel between "Protestantism" and "protection" was complete. A second time he yielded to political necessity, and a sense of paramount duty to the state; and found himself committed to a measure, which he had gained the confidence of his party by opposing. Again was he constrained to rely upon political opponents to support him against his own friends.[2] He passed this last measure of his political life, amid the reproaches and execrations of his party. He had assigned the credit of the Catholic Relief Act to Mr. Canning, whom he had constantly opposed; and he acknowledged that the credit of this measure was due to "the unadorned eloquence of Richard Cobden," — the apostle of free trade, — whom he had hitherto resisted.[3] As he had braved the hostility of his friends for the public good, the people applauded his courage and self-sacrifice, — felt for him as he writhed under the scourging of his merciless foes, — and pitied him when he fell, buried under the ruins of the great political fabric which his own genius had reconstructed, and his own hands had twice destroyed.[4] But every one was sensible that, so long as party ties and obligations should continue to form an essential part of parliamentary

[1] Peel's Mem., ii. 259; Disraeli's Lord G. Bentinck, 49–57; 108, 204–207.

[2] See his own memorandum on the position of ministers, June 21st, 1846; Mem., ii. 288; Disraeli's Lord G. Bentinck, 119, &c.

[3] Hans. Deb., 3d Ser., lxxxvii. 1054: Disraeli's Lord G. Bentinck, 307-310.

[4] Guizot's Life of Peel, 270, 289–298, 368; Disraeli's Lord G. Bentinck, 259, 262, 288.

government, the first statesman of his age had forfeited all future claim to govern.[1]

The fallen minister, accompanied by a few faithful friends, — the first and foremost men of his party, — were separated forever from the main body of the Conservatives.

> "They stood aloof, the scars remaining,
> Like cliffs which had been rent asunder;
> A dreary sea now flows between; —
> But neither heat, nor frost, nor thunder,
> Shall wholly do away, I ween,
> The marks of that which once hath been."

Obligations of a party leader.

Men of all parties, whether approving or condemning the measures of 1829 and 1846, agreed that Sir Robert Peel's conduct could not be justified upon any of the conventional principles of party ethics. The relations between a leader and his followers are those of mutual confidence. His talents give them union and force: their numbers invest him with political power. They tender, and he accepts, the trust, because he shares and represents their sentiments. Viewing affairs from higher ground, he may persuade them to modify or renounce their opinions, in the interests of the state: but, without their concurrence, he has no right to use for one purpose that power which they have intrusted to him for another. He has received a limited authority, which he may not exceed without further instructions. If, contrary to the judgment of his party, he believes

[1] On quitting office he said, "In relinquishing power I shall leave a name severely censured, I fear, by many who, on public grounds, deeply regret the severance of party ties, — deeply regret that severance, not from interested or personal motives, but from the firm conviction that fidelity to party engagements, the existence and maintenance of a great party, constitutes a powerful instrument of government."—*Hans. Deb.*, 3d Ser., lxxxvii. 1054.

So complete was the alienation of the Tory party from Sir R. Peel that even the Duke of Wellington, who coöperated with him in the repeal of the corn laws, concurred with Lord Derby in opinion, that it was impossible that he should ever place himself at the head of his party again, with any prospect of success. — *Speech of Lord Derby at Liverpool*, Oct. 29th, 1859

the public welfare to demand an entire change of policy, it is not for him to carry it out. He cannot, indeed, be called upon to conceal or disavow his own opinions; but he is no longer entitled to lead the forces intrusted to his command, — still less to seek the aid of the enemy. Elected chief of a free republic, — not its dictator, — it becomes his duty, honorably and in good faith, to retire from his position, with as little injury as may be to the cause he abandons, and to leave to others a task which his own party allegiance forbids him to attempt.[1]

The Conservatives after the fall of Sir R. Peel.

This disruption of the Conservative party exercised an important influence upon the political history of the succeeding period. The Whigs were restored to power under Lord John Russell, — not by reason of any increase of their own strength, but by the disunion of their opponents. The Conservatives, suddenly deprived of their leaders, and committed to the hopeless cause of protection, were, for the present, powerless. They were now led by Lord Stanley, one of the greatest orators of his time, who had been the first to separate from Earl Grey, and the first to renounce Sir Robert Peel. In the Commons, their cause was maintained by the chivalrous devotion of Lord George Bentinck, and the powerful, versatile, and caustic eloquence of Mr. Disraeli, — the two foremost opponents of the late minister. But they were, as yet, without spirit or organization, — disturbed in their faith, and repining over the past rather than hopeful of the future.[2]

The Whigs in office under Lord J. Russell, 1846–1852.

Meanwhile the Whigs, under Lord John Russell, were ill at ease with their more advanced supporters, as they had been under Lord Melbourne. They had nearly worked out the political reforms comprised in the scheme of an aristocratic party; and Sir Robert Peel had left them small scope for further experi-

[1] See his own justification, Mem., ii. 163, 229, 311–325; Disraeli's Lord George Bentinck, 31–33, 390, &c.

[2] Disraeli's Lord G. Bentinck, 79, 173, &c.

ments in fiscal legislation. They resisted, for a time, all projects of change in the representation; but were at length driven, by the necessities of their position, to promise a further extension of the franchise.[1] With parties so disunited, a strong government was impossible; but Lord J. Russell's administration, living upon the distractions of the Conservatives, lasted for six years. In 1852, it fell at the first touch of Lord Palmerston, who had been recently separated from his colleagues.[2]

Power was again within the reach of the Conservatives, and they grasped it. The Earl of Derby[3] was a leader worthy to inspire them with confidence; but he had the aid of few experienced statesmen. Free trade was flourishing; and the revival of a protective policy utterly out of the question. Yet protection was still the distinctive principle of the great body of his party. He could not abandon it, without unfaithfulness to his friends: he could not maintain it, without the certain destruction of his government. A party cannot live upon memories of the past: it needs a present policy and purpose; it must adapt itself to the existing views and needs of society. But the Conservatives clung to the theories of a past generation, which experience had already overthrown; and had adopted no new principles to satisfy the sentiment of their own time. In the interests of his party, Lord Derby would have done well to decline the hopeless enterprise which had fallen to his lot. The time was not yet ripe for the Conservatives. Divided, disorganized, and unprepared, — without a popular cry, and without a policy, — their failure was inevitable. In vain did they advocate protection in counties, and free trade in towns. In vain did many "Liberal Conservatives" outbid their Whig opponents in popular professions: in vain did others avoid perilous pledges, by declaring themselves fol-

Lord Derby's ministry, 1852.

[1] *Supra*, Vol. I. 357.

[2] *Supra*, Vol. I. 136.

[3] Lord Stanley had succeeded his father in the earldom in 1851.

lowers of Lord Derby, wherever he might lead them. They were defeated at the elections: they were constrained to renounce the policy of protection:[1] they could do little to gratify their own friends; and they had again united all sections of their opponents.

Junction of Whigs and Peelites under Lord Aberdeen.

And now the results of the schism of 1846 were apparent. The disciples of Sir Robert Peel's school had hitherto kept aloof from both parties. Having lost their eminent leader, they were free to form new connections. Distinguished for their talents and political experience, their influence was considerable, notwithstanding the smallness of their following. Their ambition had been checked and unsatisfied. Their isolation had continued for six years: an impassable gulf separated them from the Conservatives; and their past career and present sympathies naturally attracted them towards the Liberal party. Accordingly, a coalition ministry was formed, under Lord Aberdeen, comprising the Peelites, — as they were now called, — the Whigs, and Sir William Molesworth, a representative of the philosophical school of Radicals. It united men who had labored with Mr. Canning, Sir Robert Peel, Earl Grey, and Mr. Hume. The Liberal party had gained over nearly all the statesmanship of the Conservative ranks, without losing any of its own. Five-and-twenty years before, the foremost men among the Tories had joined Earl Grey; and now again, the first minds of another generation were won over, from the same party, to the popular side. A fusion of parties had become the law of our political system. The great principles of legislation, which had divided parties, had now been settled. Public opinion had accepted and ratified them; and the disruption of party ties which their adoption had occasioned, brought into close connection the persons as well as principles of various schools of politicians.

[1] Hans. Deb., 3d Ser., cxxii. 637, 693; cxxiii. 54, 406.

No administration, in modern times, had been stronger in talent, in statesmanship, and in parliamentary support, than that of Lord Aberdeen. But the union of parties, which gave the cabinet outward force, was not calculated to secure harmony and mutual confidence amongst its members. The Peelites engrossed a preponderance, in the number and weight of their offices, out of proportion to their following, which was not borne without jealousy by the Whigs. Unity of sentiment and purpose was wanting to the material strength of the coalition; and in little more than two years, discord, and the disastrous incidents of the Crimean war, dissolved it.

Disunion and fall of this ministry.

Lord Aberdeen, the Duke of Newcastle, and Lord J. Russell retired; and Lord Palmerston was intrusted with the reconstruction of the ministry. It was scarcely formed, when Sir James Graham, Mr. Gladstone, and Mr. Sidney Herbert, followed their Peelite colleagues into retirement. The union of these statesmen with the Liberal party, — so recently effected, — was thus completely dissolved. The government was again reduced to the narrower basis of the Whig connection. Lord John Russell, who had rejoined it on the retirement of Mr. Gladstone from the Colonial Office, resigned after the conferences at Vienna, and assumed an attitude of opposition.[1] The Radicals, — and especially the peace party, — pursued the ministry with determined hostility and resentment. The Peelites were estranged, critical, and unfriendly.

Separation of Peelites from Lord Palmerston.

The ministerial party were again separated into their discordant elements, while the opposition were watching for an occasion to make common cause with any section of the Liberals against the government. But a successful military administration, and the conclusion of a peace with Russia, rendered Lord Palmerston's position too strong to be easily assailed. For two

Combination of parties against the minister.

[1] Ann. Reg., 1855, p. 152, *et seq.*

years he maintained his ground, from whatever quarter it was threatened. Early in 1857, however, on the breaking out of hostilities in China, he was defeated by a combination of parties.[1] He was opposed by Mr. Cobden and his friends, by Lord John Russell, by all the Peelites who had lately been his colleagues, and by the whole force of the Conservatives.[2] Coalition had recently formed a strong government; and combination now brought suddenly together a powerful opposition. It was not to be expected that Lord Palmerston would submit to a confederation of parties so casual and incongruous. He boldly appealed to the confidence of the country, and routed his opponents of every political section.[3]

Lord Palmerston's popularity and sudden fall.

In the new Parliament, Lord Palmerston was the minister of a national party. The people had given him their confidence; and men, differing widely from one another, concurred in trusting to his wisdom and moderation. He was the people's minister, as the first William Pitt had been a hundred years before. But the parties whom he had discomfited at the elections, — smarting under defeat, and jealous of his ascendency, — were ready to thrust at any weak place in his armor. In 1858, our relations with France, after the Orsini conspiracy, — infelicitously involved with a measure of municipal legislation, — suddenly placed him at a disadvantage; when all the parties who had combined against him in the last Parliament, again united their forces and overpowered him.[4]

[1] Previous concert between the different parties was denied; and combination is, therefore, to be understood as a concurrence of opinion and of votes. Earl of Derby and Lord J. Russell; Hans. Deb., 3d Ser., cxliv. 1910, 2322.

[2] The majority against government was 16; Hans. Deb., 3d Ser.; cxliv. 1846. Ann. Reg., 1857, ch. iii.

[3] Mr. Cobden, Mr. Bright, Mr. Milner Gibson, Mr. Layard, and Mr. Fox, among his Liberal supporters, and Mr. Cardwell and Mr. Roundell-Palmer among the Peelites, lost their seats. — *Ann. Reg.*, 1857, 84.

[4] The majority against him was 19 — Ayes, 215; Noes, 234 — Ann. Reg., 1858, ch. ii.; Hans. Deb., 3d Ser., cxlviii. 1844

These parties had agreed in a single vote against the minister; but their union in the government of the country was inconceivable. The Conservatives, therefore, as the strongest party, were restored to power, under the Earl of Derby. The events of the last few years had exemplified the fusion of parties in the government, and their combination, on particular occasions, in opposition. The relations of all parties were disturbed and unsettled. It was now to be seen that their principles were no less undetermined. The broad distinctions between them had been almost effaced; and all alike deferred to public opinion, rather than to any distinctive policy of their own. The Conservatives were in a minority of not less than one hundred, as compared with all sections of the Liberal party;[1] and their only hopes were in the divided councils of the opposition, and in a policy which should satisfy public expectations. Accordingly, though it had hitherto been their characteristic principle to resist constitutional changes, they accepted Parliamentary Reform as a political necessity; and otherwise endeavored to conform to public opinion. For the first session, they were maintained solely by the disunion of their opponents. Their India Bill threatened them with ruin; but they were rescued by a dexterous manœuvre of Lord John Russell.[2] Their despatch disapproving Lord Canning's Oude proclamation imperilled their position; but they were saved by the resignation of Lord Ellenborough, and by a powerful diversion in their favor, concerted by Mr. Bright, Sir James Graham, and other members of the opposition.[3] It was clear that, however great their intrinsic weakness, they were safe until their opponents had composed their differences. Early in the following session, this reconciliation was accomplished; and all sections of the Liberal

Lord Derby's second ministry, 1858.

[1] Quarterly Rev., civ. 517.

[2] Ann. Reg., 1858, ch. iii.; Hans. Deb., 3d Ser., cxlix. 858.

[3] Ann. Reg. 1858, ch. iv.; Hans. Deb., 3d Ser., cl. 944, 985.

party concurred in a resolution fatal to the Ministerial Reform Bill.[1]

Lord Palmerston's second ministry, 1859.

Ministers appealed in vain to the country. Their own distinctive principles were so far lost, that they were unable to rely upon reactionary sentiments against constitutional change; and having committed themselves to popular measures, they were yet outbidden by their opponents. They fell;[2] and Lord Palmerston was restored to power, with a cabinet representing, once more, every section of the Liberal party.

Fusion of parties.

The fusion of parties, and concurrence or compromise of principles, was continued. In 1859, the Conservatives gave in their adherence to the cause of parliamentary reform; and in 1860, the Liberal administration which succeeded them, were constrained to abandon it. Thirty years of change in legislation, and in social progress, had brought the sentiments of all parties into closer approximation. Fundamental principles had been settled: grave defects in the laws and Constitution had been corrected. The great battle-fields of party were now peaceful domains, held by all parties in common. To accommodate themselves to public opinion, Conservatives had become liberal: not to outstrip public opinion, ultra-Liberals were forced to maintain silence or profess moderation.

Essential difference between Conservatives and Liberals.

Among the leaders of the Conservatives, and the leaders of the ministerial Liberals, there was little difference of policy and professions. But between their respective adherents, there were still essential diversities of political sentiment. The greater number of Conservatives had viewed the progress of legislation — which they could not resist — as a hard necessity: they

[1] *Supra*, Vol. I., 360. It was moved by Lord J. Russell, and supported by Lord Palmerston, Mr. Bright, Mr. Cobden, Mr. Milner Gibson, Mr. Sidney Herbert, Sir James Graham, and Mr. Cardwell. — Hans. Deb., 3d Ser., cliii. 405.

[2] Hans. Deb, 3d Ser., cliv. 416.

had accepted it grudgingly, and in an unfriendly spirit,— as defendants submitting to the adverse judgment of a court, whence there is no appeal. It had been repugnant to the principles and traditions of their party; and they had yielded to it without conviction. "He that consents against his will, is of the same opinion still;" and the true Conservative, silenced but not convinced by the arguments of his opponents and the assent of his leaders, still believed that the world was going very wrong, and regretted the good old times, when it was less headstrong and perverse.

On the other hand, the Liberal party, which had espoused the cause of liberty and progress from the beginning, still maintained it with pride and satisfaction, — approving the past, and hopeful of the future, — leading public opinion, rather than following it, and representing the spirit and sentiment of the age. The sympathies of one party were still with power and immutable prescription: the sympathies of the other were associated with popular self-government and a progressive policy. The Conservatives were forced to concede as much liberty as would secure obedience and contentment: the Liberals, confiding in the people, favored every liberty that was consistent with security and order.

At the same time, each party comprised within itself diversities of opinion, not less marked than those which distinguished it from the other. The old constitutional Whig was more nearly akin to the Liberal Conservative, than to many of his democratic allies Enlightened statesmen of the Conservative connection had more principles in common with the bold disciples of Sir Robert Peel, than with the halting rear-rank of their own Tory followers.

Various sections of each party.

Such diversities of opinion among men of the same parties, and such an approach to agreement between men of opposite parties, led attentive observers to speculate upon further combination and fusion hereafter. A free representation had brought together a Parliament reflecting the varied

interests and sentiments of all classes of the people; and the ablest statesmen, who were prepared to give effect to the national will, would be accepted as members of the national party, by whom the people desired to be governed. Loving freedom and enlightened progress, but averse to democracy, the great body of the people had learned to regard the struggles of parties with comparative indifference. They desired to be well and worthily governed by statesmen fit to accept their honorable service, rather than to assist at the triumph of one party over another.

Changes in the character and organization of parties.

Having traced the history of parties, the principles by which they were distinguished, their successes and defeats, their coalitions and separations, — we must not overlook some material changes in their character and organization. Of these the most important have arisen from an improved representative system, and the correction of the abuses of patronage.

Former associations of great families.

When parliamentary majorities were secured by combinations of great families, acting in concert with the Crown and agreeing in the constitution of the government, the organization of parties was due rather to negotiations between high contracting powers, for the distribution of offices, honors, and pensions, than to considerations of policy, statesmanship, and popularity.[1] The Crown and aristocracy governed the country; and their connections

[1] A spirited, but highly colored, sketch of this condition of parties, appeared in Blackwood's Magazine, No. 350, p. 754. "No game of whist in one of the lordly clubs of St. James's Square was more exclusively played. It was simply a question whether his grace of Bedford would be content with a quarter or a half of the cabinet; or whether the Marquess of Rockingham would be satisfied with two fifths; or whether the Earl of Shelburne would have all, or share his power with the Duke of Portland. In those barterings and borrowings we never hear the name of the nation: no whisper announces that there is such a thing as the people; nor is there any allusion, in its embroidered conclave, to its interests, feelings, and necessities. All was done as in an assemblage of a higher race of beings, calmly carving out the world for themselves, a tribe of epicurean deities, with the cabinet for their Olympus."

and nominees in the House of Commons were held to their party allegianee by a profuse dispensation of patronage. Men independent of eonstituents naturally looked up to the Crown and the great nobles, — the source of all honor and profit. Long before the representation was reformed, the most flagrant abuses of parliamentary patronage had been correeted. Offices and pensions had been redueed, the expenditure of the eivil list controlled, and political corruption in many forms abated.[1] But while a close representative system eontinued, parties were still compacted by family eonneetions and interests, rather than by common prineiples and convietions. The Reform Aets modified, but did not subvert, this organization. The influenee of great families, though less absolute, was still predominant. The Constitution had been invigorated by more popular elements; but soeiety had not been shaken. Rank and aneestral property continued to hold at least their fair proportion of power, in a mixed government. But they were forced to wield that power upon popular principles, and in the interests of the public. They served the people in high places, instead of ruling them as irresponsible masters.

A reformed representation and more limited patronage have had an influence, not less marked, upon the organization of parties, in another form. When great men ruled, in virtue of their parliamentary interest they needed able men to labor for them in the field of politics. There were Parliaments to lead, rival statesmen to combat, foreign ministers to outwit, finances to economize fleets and armies to equip, and the judgment of a free people to satisfy. But they who had the power and patronage of the Crown in their hands, were often impotent in debate, drivellers in counеil, dunces in writing minutes and despatches. The country was too great and free to be governed wholly by such men; and some of their patronage was therefore spared from their own families and dependents, to

Politics then a profession.

[1] See *supra*, Vol. I., 293–312; also, ch. iv.

encourage eloquence and statesmanship in others. They could bestow seats in Parliament without the costs of an election: they could endow their able but needy clients with offices, sinecures, and pensions; and could use their talents and ambition in all the arduous affairs of state. Politics became a dazzling profession, a straight road to fame and fortune. It was the day-dream of the first scholars of Oxford and Cambridge, Eton, Harrow, and Westminster. Men of genius and eloquence aspired to the most eminent positions in the government: men of administrative capacity, and useful talents for business, were gratified with lucrative but less conspicuous places in the various public departments. Such men were trained, from their youth upwards, to parliamentary and official aptitude; and were powerful agents in the consolidation of parties. Free from the intrusion of constituents, and the distractions and perils of contested elections, they devoted all their talents and energies to the service of their country, and the interests of their party. Lord Chatham, the brilliant "cornet of horse," owed the beginning of his great career to the mythical borough of Old Sarum. Mr. Burke was indebted to Lord Rockingham for a field worthy of his genius. William Pitt entered Parliament as the client of Sir James Lowther, and member for the insignificant borough of Appleby. His rival, Mr. Fox, found a path for his ambition, when little more than nineteen years of age,[1] through the facile suffrages of Midhurst. Mr. Canning owed his introduction to public life to Mr. Pitt and the select constituency of Newport. These and other examples were adduced, again and again, — not only before but even since the Reform Act, — in illustration of the virtues of rotten boroughs. Few men would now be found to contend that such boroughs ought to have been spared; but it must be admitted that the attraction of so much talent to the public service went far to redeem the vices of the old system of

[1] He was nineteen years and four months old, and spoke before he was of age. — *Lord J. Russell's Mem. of Fox*, i. 51.

parliamentary government. Genius asserted its mastery; and the oligarchy of great families was constrained to share its power with the distinguished men whom its patronage had first brought forward. An aristocratic rule was graced and popularized by the talents of statesmen sprung from the people. Nay, such men were generally permitted to take the foremost places. The territorial nobles rarely aspired to the chief direction of affairs. The Marquess of Rockingham was by his character and principles, as well as by his eminent position, the acknowledged leader of the Whig party,[1] and twice accepted the office of premier; but the Dukes of Grafton and Portland, who filled the same office, were merely nominal ministers. The Earl of Shelburne was another head of a great house, who became first minister. With these exceptions, no chief of a great territorial family presided over the councils of the state, from the fall of the Duke of Newcastle in 1762, till the ministry of the Earl of Derby in 1852.[2] Even in their own privileged chamber, eminent lawyers and other new men generally took the lead in debate, and constituted the intellectual strength of their order.

How different would have been the greatness and glory of English history, if the nobles had failed to associate with themselves these brilliant auxiliaries! Their union was a conspicuous homage to freedom. The public liberties were also advanced by the conflicts of great minds and the liberal sympathies of genius.[3]

How far favorable to freedom.

[1] Rockingham Mem., ii. 245; Lord J. Russell's Life of Fox, i. 319.

[2] Earl Grey was the acknowledged leader of the Whigs, irrespectively of his rank.

[3] On the 29th March, 1859, Mr. Gladstone, in an eloquent speech upon Lord Derby's Reform Bill, asked, "Is it not, under Providence, to be attributed to a succession of distinguished statesmen, introduced at an early age into this House, and, once made known in this House, securing to themselves the general favor of their countrymen, that we enjoy our present extension of popular liberty, and, above all, the durable form which that liberty has assumed?" — *Hans. Deb.*, 3d Ser., cliii 1059.

An able reviewer has lately said that "historians will recognize the

But it must not be forgotten that the system which they embellished was itself opposed to freedom; and that the foremost men of the dominant party, during the reigns of the two last Georges, exercised all their talents in maintaining principles, which have since been condemned as incompatible with the rights and liberties of the people. Nor can it be doubted that without their aid, the effete aristocracy, whose cause they espoused and whose ranks they recruited, would have been unable to hold out so long against the expanding intelligence and advancing spirit of the times.

Effects of suppression of rotten boroughs upon parties.

The prizes of public life were gradually diminished: pensions and sinecures were abolished: offices reduced in number and emolument; and at length, the greater part of the nomination boroughs were swept away. These privileged portals of the House of Commons were now closed against the younger son, the aspiring scholar, and the ambitious leader of a university debating club. These candidates were now supplanted by men of riper age, by men versed in other business and disinclined to learn a new vocation, by men who had already acquired fame or fortune elsewhere, by men to whom Parliament was neither a school nor a profession, but a public trust.[1] Such men looked to their constituents and to public opinion, rather than to the leaders of parties, of whose favors they were generally independent. In parties composed of such materials as these, the same discipline and

share which a privileged and endowed profession of politics had in the growth of English freedom and greatness, between the accession of the Hanoverian dynasty and the Reform Bill." — *Edinb. Rev.*, April 1861, p. 368.

[1] It is by no means true that the general standard of instruction and accomplishment was superior under the system of nomination. Wraxall says, "Mr. Pitt, who well knew how large a part of his audience, especially among the country gentlemen, were little conversant in the writings of the Augustan age, or familiar with Horace, always displayed great caution in borrowing from those classic sources."...."Barré usually condescended. whenever he quoted Latin, to translate for the benefit of the county members."—*Hist. Mem.*, iii. 318.

unity of purpose could not be maintained. Leaders sought to secure the adherence of their followers, by a policy which they and their constituents alike approved. They no longer led regular armies; but commanded bodies of volunteers. This change was felt less by the Conservatives than by the Liberal party. Their followers sat for few of the large towns. They mainly represented counties and boroughs connected with the landed interest: they were homogeneous in character, and comprised less diversities of social position and pretensions. Their confederation, in short, resembled that of the old *régime*. These circumstances greatly aided their cause. They gained strength by repose and inaction: while their opponents were forced to bid high for the support of their disunited bands, by constant activity, and by frequent concessions to the demands of the extreme members of their party.

Conservatism of age.

A moral cause has further favored the interests of the Conservatives. Conservatism is the normal state of most minds after fifty years of age, — resulting not so much from experience and philosophy, as from the natural temperament of age. The results of a life have then been attained. The rich and prosperous man thinks it a very good world that we live in, and fears lest any change should spoil it. The man who has struggled on with less success, begins to weary of further efforts. Having done his best to very little purpose, he calmly leaves the world to take care of itself. And to men of this conservative age belongs the great bulk of the property of the country.

Statesmen under the old and new systems.

Whatever the difficulties of directing parties so constituted, the new political conditions have, at least, contributed to improved government, and to a more vigilant regard to the public interests. It has been observed, however, that the leading statesmen who have administered affairs since the Reform Act, had been trained under the old organization; and that as yet the representatives of the new system have not given tokens of future emi

nence.[1] Yet there has been no lack of young men in the House of Commons. The Reform Act left abundant opportunities to the territorial interest for promoting rising talent; and if they have not been turned to good account, the men, and not the Constitution, have been at fault. Who is to blame, if young men have shown less of ambition and earnest purpose, than the youth of another generation: if those qualified by position and talents for public life, prefer ease and enjoyment to the labors and sacrifices which a career of usefulness exacts? Let us hope that the resources of an enlightened society will yet call forth the dormant energies of rising orators and statesmen. Never has there been a fairer field for genius, ambition, and patriotism. Nor is Parliament the only school for statesmanship. Formerly, it reclaimed young men from the race-course, the prize-ring, and the cockpit. Beyond its walls there was little political knowledge and capacity. But a more general intellectual cultivation, greater freedom and amplitude of discussion, the expansion of society, and the wider organization of a great community, have since trained thousands of minds in political knowledge and administrative ability; and already men, whose talents have been cultivated and accomplishments acquired in other schools, have sprung at once to eminence in debate and administration. But should the public service be found to suffer from the want of ministers already trained in political life, leaders of parties and independent constituencies will learn to bring forward competent men to serve their country. Nor are such men wanting among classes independent in fortune, and needing neither the patronage of the great, nor any prize but that of a noble ambition.

Patronage an instrument of party.

It has been noticed elsewhere,[2] that while the number of places held by members of Parliament was being continually reduced, the general patronage of the government had been extended by augmented es-

[1] Sir John Walsh's Pamphlet on the Reform Bill, 1860.

[2] Vol. I., 138. 295-298.

tablishments and expenditure. But throughout these changes patronage has been the mainspring of the organization of parties. It has ever been used to promote the interests and consolidate the strength of that party in which its distribution happened to be vested. The higher appointments offered attractions and rewards to the upper classes for their political support. The lower appointments were not less influential with constituencies. The offer of places, as a corrupt inducement to vote at elections, has long been recognized by the legislature as an insidious form of bribery.[1] But without committing any offence against the law, patronage has been systematically used as the means of rewarding past political service, and insuring future support. The greater part of all local patronage has been dispensed through the hands of members of Parliament, supporting the ministers of the day. They have claimed and received it as their right; and have distributed it, avowedly, to strengthen their political connection. Constituents have learned too well to estimate the privileges of ministerial candidates, and the barren honors of the opposition; and the longer a party has enjoyed power, the more extended has become its influence with electors.

The same cause has served to perpetuate party distinctions among constituent bodies, apart from varieties of interests and principles. The ministerial party are bound together by favors received and expected: the party in opposition — smarting under neglect and hope deferred — combine against their envied rivals, and follow, with all the ardor of self-interest, the parliamentary leaders, who are denied at once the objects of their own ambition, and the power of befriending their clients. Hence, when the principles of contending parties have seemed to be approaching agreement, their interests have kept them nearly as far asunder as ever.

The principle of competition, lately applied to the distri-

[1] 2 Geo. II. c. 24; 49 Geo. III. c. 118, &c.; Rogers on Elections, 316 347

bution of offices, has threatened to subvert the established influence of patronage. With open competition, candidates owe nothing to ministers. In this way, the civil and medical services of India, the scientific corps of the army, and some civil departments of the state, have already been lost to ministers of the crown. This loss, however, has been compensated by the limited competition introduced into other departments. There, for every vacancy, a minister nominates three or more candidates. The best is chosen; and, with the same number of offices, the patronage of the minister is multiplied. Two of his nominees are disappointed; but the patron is not the less entitled to their gratitude. He laments their failure, but could not avert it. Their lack of proficiency is no fault of his.

Effect of competition upon patronage.

In the history of parties, there is much to deplore and condemn: but more to approve and to commend. We observe the evil passions of our nature aroused, — "envy, hatred, malice, and all uncharitableness." We see the foremost of our fellow-countrymen contending with the bitterness of foreign enemies, reviling each other with cruel words, misjudging the conduct of eminent statesmen and pursuing them with vindictive animosity. We see the whole nation stirred with sentiments of anger and hostility. We find factious violence overcoming patriotism; and ambition and self-interest prevailing over the highest obligations to the state. We reflect that party rule excludes one half of our statesmen from the service of their country, and condemns them — however wise and capable — to comparative obscurity and neglect. We grieve that the first minds of every age should have been occupied in collision and angry conflict, instead of laboring together for the common weal.

Review of the evils and merits of party.

But, on the other side, we find that government without party is absolutism, — that rulers, without opposition, may be despots. We acknowledge, with gratitude, that we owe to party most of our rights and liberties. We recognize

in the fierce contentions of our ancestors, the conflict of great principles, and the final triumph of freedom. We glory in the eloquence and noble sentiments which the rivalry of contending statesmen has inspired. We admire the courage with which power has been resisted; and the manly resolution and persistence by which popular rights have been established. We observe that, while the undue influence of the crown has been restrained, democracy has been also held in check. We exult in the final success of men who have suffered in a good cause. We admire the generous friendships, fidelity, and self-sacrifice, — akin to loyalty and patriotism, — which the honorable sentiments of party have called forth.[1] We perceive that an opposition may often serve the country far better than a ministry; and that where its principles are right, they will prevail. By argument and discussion truth is discovered, public opinion is expressed, and a free people are trained to self-government. We feel that party is essential to representative institutions. Every interest, principle, opinion, theory, and sentiment, finds expression. The majority governs; but the minority is never without sympathy, representation, and hope. Such being the two opposite aspects of party, who can doubt that good predominates over evil? Who can fail to recognize in party the very life-blood of freedom?

[1] "The best patriots in the greatest commonwealths have always commended and promoted such connections. *Idem sentire de republicâ* was with them a principal ground of friendship and attachment: nor do I know any other capable of forming firmer, dearer, more pleasing, more honorable, and more virtuous habitudes." — *Burke's Present Discontents*, *Works*, ii 332.

CHAPTER IX.

Freedom of Opinion the greatest of Liberties, and last acquired: — The Press under the Censorship, and afterwards:—Its Contests with Government early in the Reign of George III.: — Wilkes and Junius: — Rights of Juries: — Mr. Fox's Libel Act: — Public Meetings, Associations, and Political Agitation: — Progress of Free Discussion, 1760–1792: — Reaction caused by French Revolution and English Democracy: — Repressive Policy, 1792–1799: — The Press until the Regency.

Freedom of opinion, the greatest of liberties.

We now approach the greatest of all our liberties, — liberty of opinion. We have to investigate the development of political discussion, to follow its contests with power, to observe it repressed and discouraged, but gradually prevailing over laws and rulers, until the enlightened judgment of a free people has become the law by which the state is governed.

Free discussion the last liberty to be recognized.

Freedom in the governed to complain of wrongs, and readiness in rulers to redress them, constitute the ideal of a free state. Philosophers and statesmen of all ages have asserted the claims of liberty of opinion.[1] But the very causes which have filled

[1] "Οὔτε ἐκ τοῦ κόσμου τὸν ἥλιον, οὔτε ἐκ τῆς παιδείας ἄρτεον τὴν παρ-ρησίαν." — *Socrates*, Stobæi Florilegium. Ed. Gaisford, i. 328. Translated thus by Gilbert Wakefield: — "The sun might as easily be spared from the universe, as free speech from the liberal institutions of society."

"Οὐδὲν ἂν εἴη τοῖς ἐλευθέροις μεῖζον ἀτύχημα τοῦ στέρεσθαι τῆς παρ-ρησίας." — *Demosthenes. Ibid.*, 323; translated by the same eminent scholar: — "No greater calamity could come upon a people than the privation of free speech."

"Τοὐλεύθερον δ' ἐκεῖνο εἴ τις ἥδεται πόλει
χρηστόν τι βούλευμ' εἰς μέσον φέρειν, ἔχων.'

This is true liberty, when free-born men,
Having to advise the public, may speak free.

Euripides

enlightened thinkers with admiration for this liberty, have provoked the intolerance of rulers. It was nobly said by Erskine, that "other liberties are held under governments, but the liberty of opinion keeps governments themselves in due subjection to their duties. This has produced the martyrdom of truth in every age; and the world has been only purged from ignorance with the innocent blood of those who have enlightened it."[1] The church has persecuted freedom of thought in religion: the state has repressed it in politics. Everywhere authority has resented discussion, as hostile to its own sovereign rights. Hence, in states otherwise free, liberty of opinion has been the last political privilege which the people have acquired.

Censorship of the press.

When the art of printing had developed thought, and multiplied the means of discussion, the press was subjected, throughout Europe, to a rigorous censorship. First, the church attempted to prescribe the bounds of human thought and knowledge; and next, the state assumed the same presumptuous office. No writings were suffered to be published without the *imprimatur* of the licenser; and the printing of unlicensed works was visited with the severest punishments.

After the reformation in England, the crown assumed the right which the church had previously exercised, of prohibiting the printing of all works "but such as should be first seen and allowed." The censorship of the press became part of the prerogative; and printing was further restrained by patents and monopolies. Queen Elizabeth interdicted printing save in London, Oxford, and Cambridge.[2]

"For this is not the liberty which we can hope, that no grievance ever should arise in the commonwealth, — that let no man in the world expect: but when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for." — *Milton's Areopagetica*, *Works*, iv. 396; Ed. 1851.

"Give me the liberty to know, to utter, and to argue, freely according to conscience, above all liberties." — *Ibid.*, 442.

[1] Erskine's speech for Paine.

[2] State Tr., i. 1263.

Tracts, flying sheets, and newspapers.

But the minds of men had been too deeply stirred to submit to ignorance and lethargy. They thirsted after knowledge; and it reached them through the subtle agency of the press. The theological controversies of the sixteenth century, and the political conflicts of the seventeenth, gave birth to new forms of literature. The heavy folio, written for the learned, was succeeded by the tract and flying sheet, — to be read by the multitude. At length, the printed sheet, continued periodically, assumed the shape of a news-letter or newspaper.

The press under the Stuarts.

The first example of a newspaper is to be found late in the reign of James I.,[1] — a period most inauspicious for the press. Political discussion was silenced by the licenser, the Star Chamber, the dungeon, the pillory, mutilation, and branding. Nothing marked more deeply the tyrannical spirit of the two first Stuarts than their barbarous persecutions of authors, printers, and the importers of prohibited books: nothing illustrated more signally the love of freedom, than the heroic courage and constancy with which those persecutions were borne.

The commonwealth.

The fall of the Star Chamber[2] augured well for the liberty of the press; and the great struggle which ensued, let loose the fervid thoughts and passions of society in political discussion. Tracts and newspapers entered hotly into the contest between the Court and Parliament.[3] The Parliament, however, while it used the press

[1] The Weekly Newes, May 23d, 1622, printed for Nicholas Bourne and Thomas Archer. The English Mercurie, 1588, in the British Museum, once believed to be the first English newspaper, has since been proved a fabrication. — *Letter to Mr. Panizzi by T. Watts, of the British Museum*, 1839; Disraeli's Curiosities of Literature, 14th Ed., i. 173; Hunt's Fourth Estate, i. 3.

[2] February 1641.

[3] Upwards of 30,000 political pamphlets and newspapers were issued from the press between 1640 and the restoration. They were collected by Mr. Thomasson, and are now in the British Museum, bound up in 2000 volumes. — *Knight's Old Printer and Modern Press*, 199; *Disraeli's Cur. of Literature* i. 175.

as an instrument of party, did not affect a spirit of toleration. It passed severe orders and ordinances in restraint of printing;[1] and would have silenced all royalist and prelatical writers. In war none of the enemy's weapons were likely to be respected; yet John Milton, looking beyond the narrow bounds of party to the great interests of truth, ventured to brand its suppression by the licenser, as the slaying of "an immortality rather than a life."[2]

The restoration brought renewed trials upon the press. The Licensing Act placed the entire control of printing in the government.[3] In the narrow spirit of Elizabeth, printing was confined to London, York, and the Universities, and the number of master-printers limited to twenty. The severe provisions of this act were used with terrible vindictiveness. Authors and printers of obnoxious works were hung, quartered and mutilated, exposed in the pillory and flogged, or fined and imprisoned, according to the temper of their judges:[4] their productions were burned by the common hangman. Freedom of opinion was under interdict: even news could not be published without license. Nay, when the Licensing Act had been suffered to expire for a while, the twelve judges, under Chief Justice Scroggs, declared it to be criminal, at common law, to publish any public news, whether true or false, without the king's license.[5] Nor was this monstrous opinion judicially condemned, until the better times

The press after the restoration.

[1] Orders June 14th, 1642; Aug. 26th, 1642; Husband's Ord., 591; Ordinance, June, 1643; Parl. Hist., iii. 131; Ordinance, Sept. 30th, 1647; Parl. Hist., iii. 780; Rushworth, ii. 957, &c.; Further Ordinances, 1649 and 1652; Scobell, i. 44, 134; ii. 88, 230.

[2] Areopagetica; a Speech for Liberty of Unlicensed Printing. Works iv. 400; Ed. 1851.

[3] 13 & 14 Chas. II. c. 33.

[4] St. Tr., vi. 514. The sentence upon John Twyn, a poor printer, was one of revolting brutality; St. Tr., vi. 659; Keach's case, pillory, *Ib.*, 710 Cases of Harris, Smith, Curtis, Carr, and Cellier, *Ib.*, vii. 926–1043, 1111, 1183.

[5] Carr's Case, 1680; State Trials, vii. 929.

of that constitutional judge, Lord Camden.[1] A monopoly in news being created, the public were left to seek intelligence in the official summary of the "London Gazette." The press, debased and enslaved, took refuge in the licentious ribaldry of that age.[2] James II. and his infamous judges carried the Licensing Act into effect, with barbarous severity. But the revolution brought indulgence even to the Jacobite press; and when the Commons, a few years later, refused to renew the Licensing Act,[3] a censorship of the press was forever renounced by the law of England.

Expiration of Licensing Act, 1695.

Henceforth the freedom of the press was theoretically established. Every writing could be freely published; but at the peril of a rigorous execution of the libel laws. The administration of justice was indeed improved. Scroggs and Jeffreys were no more; but the law of libel was undefined, and the traditions of the Star Chamber had been accepted as the rule of Westminster Hall. To speak ill of the government was a crime. Censure of ministers was a reflection upon the king himself.[4] Hence the first aim and use of free discussion was prohibited by law. But no sooner had the press escaped from the grasp of the licenser, than it began to give promise of its future energies. Newspapers were multiplied: news and gossip freely circulated among the people.[5]

Theory of free press recognized.

With the reign of Anne opened a new era in the history of the press. Newspapers then assumed their present form, combining intelligence with political discussion;[6] and began to be published daily.[7] This

The press in the reign of Anne.

[1] Entinck *v.* Carrington, St. Tr., xix. 1071.

[2] See Macaulay's Hist., i. 365, for a good account of the newspapers o. this period.

[3] See Macaulay's Hist., iii. 656; iv. 540.

[4] See the law as laid down by Ch. J. Holt, St. Tr., xiv. 1103.

[5] Macaulay's Hist., iv. 604.

[6] Hallam's Const. Hist., ii. 331, 460.

[7] Disraeli's Cur. of Literature, i. 178; Nichols' Lit. Anecd., iv. 8(. The Daily Courant was the first daily paper, in 1709. — *Hunt's Fourth Estate.* i. 175.

reign was also marked by the higher intellectual character of its periodical literature, which engaged the first talents of that Augustan age, — Addison and Steele, Swift and Bolingbroke. The popular taste for news and political argument was becoming universal: all men were politicians, and every party had its chosen writers. The influence of the press was widely extended; but in becoming an instrument of party, it compromised its character, and long retarded the recognition of its freedom. Party rancor too often betrayed itself in outrageous license and calumny. And the war which rulers had hitherto waged against the press was now taken up by parties. Writers in the service of rival factions had to brave the vengeance of their political foes, whom they stung with sarcasm and lampoon. They could expect no mercy from the courts, or from Parliament. Every one was a libeller who outraged the sentiments of the dominant party. The Commons, far from vindicating public liberty, rivalled the Star Chamber in their zeal against libels. Now they had "a sermon to condemn and a parson to roast:"[1] now a member to expel:[2] now a journalist to punish, or a pamphlet to burn.[3] Society was no less intolerant. In the late reign, Dyer, having been reprimanded by the speaker, was cudgelled by Lord Mohun in a coffee-house;[4] and in this reign, Tutchin, who had braved the Commons and the attorney-general, was waylaid in the streets, and actually beaten to death.[5] So strong was the feeling against the press, that proposals were even made for reviving the Licensing Act. It was too late to resort to

The press an instrument of party.

[1] Dr. Sacheverell, 1709; Bolingbroke, Works, iii. 9; Preface to Bishop of St. Asaph's Four Sermons, burned 1712; Parl. Hist., vi. 1151.

[2] Steele, in 1713. See Sir R. Walpole's admirable speech; Parl. Hist., vi. 1268; Coxe's Walpole, i. 72.

[3] Dr. Drake and others, 1702; Parl. Hist., vi. 19; Dr. Coward, 1704, *Ibid.*, 331; David Edwards, 1706; *Ibid.*, 512; Swift's Public Speech of the Whigs, 1713 (Lords); Parl. Hist., vi. 1261.

[4] 1694; Kennet's Hist., iii. 666; Hunt's Fourth Estate, i. 164.

[5] 1704; *Ibid.*, i. 173.

such a policy; but a new restraint was devised in the form of a stamp duty on newspapers and advertisements,[1]—avowedly for the purpose of repressing libels. This policy, being found effectual in limiting the circulation of cheap papers,[2] was improved upon in the two following reigns,[3] and continued in high esteem until our own time.[4]

First stamp duty, 1712.

The press of the two first Georges made no marked advances in influence or character. An age adorned by Pope, Johnson, and Goldsmith, by Hume and Robertson, by Sterne, Gray, Fielding, and Smollett, claims no mean place in the history of letters. But its political literature had no such pretensions. Falling far below the intellectual standard of the previous reign, it continued to express the passions and malignity of parties. Writers were hired by statesmen to decry the measures and blacken the characters of their rivals; and, instead of seeking to instruct the people, devoted their talents to the personal service of their employers, and the narrowest interests of faction. Exercising unworthily a mean craft, they brought literature itself into disrepute.[5]

The press in the reigns of Geo. I. and II.

[1] 10 Anne, c. 19, § 101, 118; Resns. June 2d, 1712; Parl. Hist., vi. 1141; Queen's Speech, April 1713; *Ib.*, 1173.

[2] "Do you know that Grub Street is dead and buried during the last week." — *Swift's Journ. to Stella*, Aug. 7th, 1712.

> "His works were hawked in every street,
> But seldom rose above a sheet:
> Of late, indeed, the paper stamp
> Did very much his genius cramp;
> And since he could not spend his fire
> He now intended to retire."
>
> *Swift's Poems*, iii. 44, Pickering's Edition.

[3] 11 G. I. c. 8; 30 G. II. c. 19.

[4] See *infra*, p. 213.

[5] Speaking in 1740, Mr. Pulteney termed the ministerial writers "a herd of wretches, whom neither information can enlighten, nor affluence elevate." "If their patrons would read their writings, their salaries would quickly be withdrawn: for a few pages would convince them that they can neither attack nor defend, neither raise any man's reputation by their panegyric, nor destroy it by their defamation." — *Parl. Hist.*, xi. 882. — See also some excellent passages in Forster's Life of Goldsmith, 71; Ed. 1848.

The press, being ever the tool of party, continued to be exposed to its vengeance;[1] but, except when Jacobite papers, more than usually disloyal, openly prayed for the restoration of the Stuarts,[2] the press generally enjoyed a fairer toleration. Sir Robert Walpole, good-humored, insensitive, liberal, — and no great reader, — was indifferent to the attacks of the press, and avowed his contempt for political writers of all parties.[3] And other ministers, more easily provoked, found a readier vengeance in the gall of their own bitter scribes, than in the tedious processes of the law.

Such was the condition of the press on the accession of George III. However debased by the servile uses of party, and the low esteem of its writers,[4] its political influence was not the less acknowledged. With an increasing body of readers, interested in public affairs, and swayed by party feelings and popular impulses, it could not fail to become a powerful friend or formidable foe to ministers. "A late nobleman, who had been a member of several administrations," said Smollett, "observed to me, that one good writer was of more importance to the government, than twenty placemen in the House of Commons."[5] Its influence, as an auxiliary in party warfare, had been proved. It was now to rise above party, and to become a great popular power, — the representative of public opinion. The new reign suddenly developed a freedom of discussion hitherto unknown; and within a few years, the

Press on accession of Geo. III.

[1] Parl. Hist., viii. 1166; ix. 867.

[2] Mist's Journ., May 27th, 1721; Parl. Hist., vii. 804; Trial of Mathews, 1719; St. Tr., xv. 1323.

[3] On the 2d Dec., 1740, he said: — "Nor do I often read the papers of either party, except when I am informed by some who have more inclination to such studies than myself, that they have risen by some accident above their common level." Again: "I have never discovered any reason to exalt the authors who write against the administration, to a higher degree of reputation than their opponents." — *Parl. Hist.*, xi. 882.

[4] Walpole's Mem., iii. 115, 164; Forster's Life of Goldsmith, 387.

[5] Forster's Life of Goldsmith, 665. In 1738, Danvers said: "The sentiments of one of these scribblers have more weight with the multitude than the opinion of the best politician in the kingdom."—*Parl. Hist.*, x. 448

people learned to exercise a powerful control over their rulers, by an active and undaunted press, by public meetings, and, lastly, by political concert and association.

The government was soon at issue with the press. Lord Bute was the first to illustrate its power. Overwhelmed by a storm of obloquy and ridicule, he bowed down before it, and fled. He did not attempt to stem it by the terrors of the law. Vainly did his own hired writers endeavor to shelter him:[1] vainly did the king uphold his favorite. The unpopular minister was swept away; but the storm continued. Foremost among his assailants had been the "North Briton," conducted by Wilkes, who was not disposed to spare the new minister, Mr. Grenville, or the court. It had hitherto been the custom for journalists to cast a thin veil over sarcasms and abuse directed against public men;[2] but the "North Briton" assailed them openly and by name.[3] The affected concealment of names, indeed, was compatible neither with the freedom nor the fairness of the press. In shrinking from the penalties of the law, a writer also evaded the responsibilities of truth. Truth is ever associated with openness. The free use of names was therefore essential to the development of a sound political literature. But as yet the old vices of journalism prevailed; and to coarse invective and slander was added the unaccustomed insult of a name openly branded by the libeller.

Wilkes and the "North Briton."

On the 23d of April, 1763, appeared the memorable number 45 of the "North Briton," commenting upon the king's speech at the prorogation, and upon the

"North Briton," No. 45.

[1] Dodington's Diary, 245, 419, &c.; History of a Late Minority, 77.

[2] Even the Annual Register, during the first few years of this reign, in narrating domestic events, generally avoided the use of names, or gave merely the initials of ministers and others; e. g. "Mr. P.," "D. of N.," "E. of B.," 1762, p. 46; "Mr. F.," "Mr. Gr.," p. 62; "Lord H." and "Lord E—r—t," 1763, p. 40; "M. of R.," 1765, p. 44; "Marquis of R——." and "Mr. G——," 1769, p. 50; "The K——," 1770, p. 58, &c. &c.

[3] "The highest names, whether of statesmen or magistrates, were printed at length, and the insinuations went still higher."—*Walpole's Mem.*, i. 179.

unpopular peace recently concluded.[1] It was at once stigmatized by the court as an audacious libel, and a studied insult to the king himself; and it has since been represented in the same light, by historians not heated by the controversies of that time.[2] But however bitter and offensive, it unquestionably assailed the minister rather than the king. Recognizing, again and again, the constitutional maxim of ministerial responsibility, it treated the royal speech as the composition of the minister.[3]

The court were in no mood to brook the license of the press. Why had great lords been humbled, parties broken up, and the Commons managed by the paymaster, if the king was to be defied by a libeller?[4] It was resolved that he should be punished, — not, like common libellers, by the attorney-general, — but by all the powers of the state. Prerogative was strained by the issue of a general warrant for the discovery of the authors and printers;[5] privilege was perverted for the sake of vengeance and persecution;[6] and an information for libel was filed against Wilkes in the Court of King's Bench. Had the Court contented themselves with the last proceeding, they would have had the libeller at their feet. A verdict was obtained against Wilkes for printing and publishing a seditious and scandalous libel. At the same time the jury found his "Essay on Woman" to be "an obscene and impious libel."[7] But the other measures taken to crush Wilkes were so repugnant to justice and decency, that these verdicts were resented by the people as part of his persecutions. The Court of King's Bench shared the odium attached to the government, which Wilkes spared no pains to aggravate. He com-

Proceedings against Wilkes.

[1] Parl. Hist., xv. 1331, *n.*
[2] Adolphus' Hist., i. 116; Hughes' Hist., i. 312.
[3] Lord Mahon's Hist., v. 45; Massey's Hist., i. 157.
[4] Dodington's Diary, 245, 419, &c.; Hist. of a Late Minority, 77
[5] *Infra*, p. 245.
[6] See *supra*, Vol. I. 365, *et seq.*
[7] Burrow's Reports, iv. 2527; St. Tr., xix. 1075.

plained that Lord Mansfield had permitted the informations against him to be irregularly amended on the eve of his trial; he inveighed against the means by which a copy of his "Essay on Woman" had been obtained by the bribery of his servant; and by questions arising out of his outlawry, he contrived to harass the court, and keep his case before the public for the next six years.[1] The people were taught to be suspicious of the administration of justice in cases of libel. And assuredly the proceedings of the government and the doctrines of the courts alike justified their suspicions.

Printers of the "North Briton," 1764.

The printers of the "North Briton" suffered as well as the author; and the government, having secured these convictions, proceeded with unrelenting rigor against other printers.[2] No grand jury stood between the attorney-general and the defendants; and the courts, in the administration of the law, were ready instruments of the government. Whether this severity tended to check the publication of libels or not, it aroused the sympathies of the people on the side of the sufferers. Williams, who had reprinted the "North Briton," being sentenced to the pillory, drove there in a coach marked "45." Near the pillory the mob erected a gallows, on which they hung the obnoxious symbols of a boot and a Scotch bonnet; and a collection was made for the culprit, which amounted to 200*l.*[3]

Ex-officio informations. Mr. Calvert's motion, March 4th, 1765.

Meanwhile *ex-officio* informations had become so numerous as to attract observation in Parliament; where Mr. Nicholson Calvert moved for a bill to discontinue them. He referred the origin of the practice to the Star Chamber, complained of persons

1 State Tr., xix. 1136.

2 Horace Walpole affirms that 200 informations were filed, a larger number than had been prosecuted in the whole thirty-three years of the last reign. — *Walp. Mem.*, ii. 15, 67. But many of these must have been abandoned, for in 1791 the attorney-general stated that in the last thirty-one years there had been seventy prosecutions for libel, and about fifty convictions: twelve had received severe sentences; and in five cases the pillory had formed part of the punishment. — *Parl. Hist.*, xxix. 551.

3 Walp. Mem., ii. 80; Walp. Letters, iv. 49.

being put upon their trial without the previous finding of a grand jury, and argued that the practice was opposed to the entire policy of our laws. His motion, however, was brought forward in opposition to the advice of his friends,[1] and being coldly seconded by Mr. Serjeant Hewitt, was lost on a division, by a large majority.[2]

The excitement which Wilkes and his injudicious oppressors had aroused had not yet subsided, when a more powerful writer arrested public attention.[3] Junius was by far the most remarkable public writer of his time.[4] He was clear, terse, and logical in statement, learned, ingenious, and subtle in disputation, eloquent in appeals to popular passion, polished, and trenchant as steel in sarcasm, terrible in invective. Ever striving to wound the feelings and sully the reputation of others, he was even more conspicuous for rancor and envenomed bitterness than for wit. With the malignant spirit of a libeller, without scruple or regard for truth, he assailed the private character, no less than the actions of public men. In the "Morning Advertiser" of the 19th of December, 1769, appeared Junius's celebrated letter to the king.[5] Inflammatory and seditious, it could not be overlooked; and as the author was unknown, informations were immediately filed against the printers and publishers of the letter. But before they were brought to trial, Almon, the bookseller, was tried for selling the "London Museum," in which the libel was reprinted.[6] His connection with the publication proved to be so slight that he escaped with a

Junius. Character of Junius. Junius's letter to the king.

1 Walp. Mem., ii. 84.

2 Ayes, 204; Noes, 78; Parl. Hist., xvi. 40.

3 Walp. Mem., iii. 164; Lord Brougham's Works, iii. 425, *et seq.*

4 Burke, speaking of his letter to the king, said: — "It was the rancour and venom with which I was struck. In these respects the North Briton is as much inferior to him, as in strength, wit, and judgment." — *Parl. Hist.*, xvi. 1154.

5 Letter, No. xxxv.; Woodfall's Ed., ii. 62.

6 Walp. Mem., iv. 160; Notes to the St. Tr., xx. 821; Parl. Hist., xvi 1153, 1156.

nominal punishment. Two doctrines, however, were maintained in this case, which excepted libels from the general principles of the criminal law. By the first, a publisher was held criminally answerable for the acts of his servants, unless proved to be neither privy nor assenting to the publication of a libel. So long as exculpatory evidence was admitted, this doctrine was defensible; but judges afterwards refused to admit such evidence, holding that the publication of a libel by a publisher's servant was proof of his criminality. And this monstrous rule of law prevailed until 1843, when it was condemned by Lord Campbell's Libel Act.[1]

Publisher criminally liable for acts of his servants.

The second doctrine was wholly subversive of the rights of juries in cases of libel. Already, on the trial of the printers of the "North Briton," Lord Mansfield had laid it down, that it was the province of the court alone to judge of the criminality of a libel. This doctrine, however questionable, was not without authority;[2] and was now enforced with startling clearness by his lordship. The only material issue for the jury to try, was whether the paper was libellous or not; and this was emphatically declared to be entirely beyond their jurisdiction.[3] Trial by jury was the sole security for the freedom of the press; and it was found to have no place in the law of England.

Right of Jury to judge of the offence of libel, denied.

Again, on the trial of Woodfall, his lordship told the jury that, "as for the intention, the malice, the sedition, or any other harder words which might be given in informations for libels, public or private, they were merely formal words, mere words of course, mere inferences of law, — with which the jury were not to concern themselves." The jury, however, learning that the

Woodfall's trial, June 13th, 1770.

[1] 6 & 7 Vict., c. 96, § 7; Hans. Deb., 3d Ser., lvi. 395, &c.

[2] Lord Raymond in Franklin's Case, 1731; Ch. Justice Lee in Owen's case, 1752. — *St. Tr.*, xvii. 1243; xviii. 1203; Parl. Hist., xvi. 1275.

[3] Burr., 2686; State Tr., xx. 803.

offence which they were trying was to be withdrawn from their cognizance, adroitly hit the palpable blot of such a doctrine, by finding Woodfall "guilty of printing and publishing only." In vain was it contended, on the part of the crown, that this verdict should be amended, and entered as a general verdict of guilty. The court held the verdict to be uncertain, and that there must be a new trial.[1] Nov. 20th, 1770.

Miller, the printer and publisher of the "Evening Post," was next tried, at Guildhall. To avert such a verdict as that in Woodfall's case, Lord Mansfield, in language still stronger and more distinct, laid it down, that the jury must not concern themselves with the character of the paper charged as criminal, but merely with the fact of its publication, and the meaning of some few words not in the least doubtful. In other words, the prisoner was tried for his offence by the judge and not by the jury. In this case, however, the jury boldly took the matter into their own hands, and returned a verdict of not guilty.[2] Miller's trial, July 18th, 1770.

Other printers were also tried for the publication of this same letter of Junius, and acquitted. Lord Mansfield had, in fact, overshot the mark; and his dangerous doctrines recoiled upon himself.[3] Such startling restrictions upon the natural rights of a jury excited general alarm and disapprobation.[4] They were impugned in several able letters and pamphlets; and above all, in the terrible letter of Junius to Lord Mansfield himself.[5] It was clear that they were fatal to the liberty of the press. Writers, prosecuted by an officer of the crown, without the investigation of a grand jury, and denied even a trial by their peers, were placed beyond the pale of the law. Disapproval of Lord Mansfield's doctrines.

These trials also became the subject of animadversion

[1] State Tr., xx. 895.
[2] State Tr., xx. 870.
[3] Walp. Mem., iv. 160, 168.
[4] See Lord Chatham's Corr., iv. 50.
[5] Nov. 14th, 1770; Letter No. 41, Woodfall's Ed., ii. 159.

in Parliament. On a motion of Captain Constantine Phipps, for a bill to restrain *ex-officio* informations, grave opinions were expressed upon the invasion of the rights of juries, and the criminal responsibility of a publisher for the acts of his servants. Lord Mansfield's doctrines were questioned by Mr. Cornwall, Mr. Serjeant Glynn, Mr. Burke, Mr. Dunning, and Sir W. Meredith;[1] and defended by Mr. Attorney-General De Grey, and Mr. Solicitor-General Thurlow.[2]

Debates in Parliament. Captain Phipps' motion, Nov. 27th, 1770.

Lord Chatham, in the House of Lords, assailed Lord Mansfield, for his directions to juries in the recent libel cases. Lord Mansfield justified them, and Lord Camden desired that they should be fully stated, in order that the House might judge of their legality.[3]

Lord Chatham, Dec. 5th, 1770.

This debate was followed, in the Commons, by a motion of Mr. Serjeant Glynn for a committee, to inquire into the administration of criminal justice, particularly in cases relating to the liberty of the press, and the constitutional power and duty of juries. The same controverted questions were again discussed; and such was the feeling of the House, that the motion was lost by a majority of eight only.[4] In this debate, Mr. Charles Fox gave little promise of his future exertions to improve the law of libel. He asked, where was the proof, "that juries are deprived of their constitutional rights?" "The abettors of the motion," he said, "refer us to their own libellous remonstrances, and to those infamous lampoons and satires which they have taken care to write and circulate."

Mr. Serjeant Glynn's motion, Dec. 6th, 1770.

The day after this debate, Lord Mansfield desired that the Lords might be summoned on the 10th of December, as he had a communication to make to their Lordships. On that day, however, instead

Lord Mansfield produces the judgment in Woodfall's case.

[1] Mr. Wedderburn also spoke against *ex-officio* informations.

[2] Parl. Hist., xvi. 1127, 1175 (two reports).

[3] Parl. Hist., xvi. 1302.

[4] Ayes, 176; Noes, 184; Parl. Hist., xvi. 1211; Cavendish Deb., ii. 89; Walp. Mem., iv. 211.

of submitting a motion, or making a statement to the House, he merely informed their Lordships that he had left with the clerk of the House a copy of the judgment of the Court of King's Bench in Woodfall's case, which their Lordships might read, and take copies of, if they pleased. This, however, was enough to invite discussion; and on the following day, Lord Camden accepted this paper as a challenge directed personally to himself. "He has thrown down the glove," he said, "and I take it up. In direct contradiction to him, I maintain that his doctrine is not the law of England." He then proposed six questions to Lord Mansfield upon the subject. His Lordship, in great distress and confusion, said, "he would not answer interrogatories," but that the matter should be discussed.[1] No time, however, was fixed for this discussion; and notwithstanding the warmth of the combatants, it was not resumed.

So grave a constitutional wrong, however, could not be suffered without further remonstrances. Mr. Dowdeswell moved for a bill to settle doubts concerning the rights of jurors in prosecutions for libels, which formed the basis of that brought in, twenty years later, by Mr. Fox.[2] The motion was seconded by Sir G. Savile, and supported by Mr. Burke, in a masterly speech, in which he showed, that if the criminality of a libel were properly excluded from the cognizance of a jury, — then should the malice in charges of murder, and the felonious intent in charges of stealing, be equally removed from their jurisdiction, and confided to the judge. If such a doctrine were permitted to encroach upon our laws, juries would "become a dead letter in our constitution." The motion was defeated on a question of adjournment.[3] All the Whig leaders were sensible of the danger of leaving public writers at the mercy

Mr. Dowdeswell's motion, March 7th, 1771.

[1] Parl. Hist., xvi. 1321; Preface to Woodfall's Junius, i. 49; Letter No. 82, Junius; Woodfall's Ed., iii. 295; Walpole's Mem., iv. 220; Lord Campbell's Lives of the Chancellors, v. 295.

[2] Rockingham Mem., ii. 198.

[3] 218 to 72; Parl. Hist., xvii. 43; Burke's Works, x. 109; Ed. 1812.

of the courts; and Lord Rockingham, writing to Mr. Dowdeswell, said, "he who would really assist in rcëstablishing and confirming the right in juries to judge of both law and fact, would be the best friend to posterity."[1] This work, however, was not yet to be accomplished for many years; and the law of libel continued to be administered by the courts, according to the doctrine which Parliament had hitherto shrunk from condemning.

Mr. Erskine supports the rights of Juries.

Case of Dean of St. Asaph.

Nov. 15th, 1779.

But the rights of juries continued to be inflexibly maintained in the courts, by the eloquenec and noble courage of Mr. Erskine.[2] The exertions of that consummate advocate in defence of the Dean of St. Asaph, are memorable in forensic history. At various stages of the proccedings in this ease, he vindicated the right of the jury to judge of the criminality of the libel; and in arguing for a new trial, delivcred a speeeh, which Mr. Fox repeatedly declared to bc "the finest argument in the English language."[3] He maintained "that the defendant had had, in fact, no trial; having been found guilty without any investigation of his guilt, and without any power left to the jury to take cognizanee of his innocence." And by the most elosely connected chain of reasoning, by authorities, and by cases, he proved that the anomalous doctrine against which he was eontending was at variance with the laws of England. The new trial was refused; and so little did Lord Mansfield antieipate the approaching condemnation of his doctrine, that he sneered at the "jealousy of leaving the law to the court," as "puerile rant and deelamation." Sueh, however, was not the opinion of the first statesmen of his own time, nor of posterity.

Mr. Erskine then moved in arrest of judgment. He had

[1] Rockingham Mem., ii. 200.

[2] In 1778. He had only been called to the bar on the last day of the preceding term.— St. Tr., xxi. 1; Erskine's Speeches, i. 4; Edinburgh Review, Vol. xvi. 103.

[3] Note to St. Tr., xxi. 971.

known throughout that no part of the publication, as charged in the indictment, was criminal; but had insisted upon maintaining the great public rights which he had so gloriously defended. He now pointed out the innocence of the publication in point of law: the court were unanimously of opinion that the indictment was defective; and the dean was at length discharged from his prosecution.[1]

Stockdale's trial, 1789.

The trial of Stockdale, in 1789, afforded Mr. Erskine another opportunity of asserting the liberty of the press, in the most eloquent speech ever delivered in a British Court of Justice. Stockdale was prosecuted by the attorney-general, at the instance of the House of Commons,[2] for publishing a defence of Warren Hastings, written by the Rev. Mr. Logan. This pamphlet was charged in the information as a scandalous and seditious libel, intending to vilify the House of Commons as corrupt and unjust in its impeachment of Warren Hastings. After urging special grounds of defence, Mr. Erskine contended, with consummate skill and force of argument, that the defendant was not to be judged by isolated passages, selected and put together in the information, but by the entire context of the publication, and its general character and objects. If these were fair and proper, the defendant must be acquitted. That question he put to the jury as one which "cannot, in common sense, be anything resembling a question of law, but is a pure question of fact." Lord Kenyon, who tried the cause, did not controvert this doctrine, and the jury fairly comparing the whole pamphlet with the information, returned a verdict of not guilty.[3] Thus Mr. Erskine succeeded in establishing the important doctrine that full and free discussion was lawful, — that a man was not to be punished for a few unguarded expressions, but was entitled

[1] St. Tr., xxi. 847–1046; Erskine's Speeches, i. 386; Lord Campbell's Chief Justices, ii. 540.

[2] Parl. Hist., xxvii. 1, 7.

[3] St. Tr., xxii. 237; Erskine's Speeches, ii. 205.

to a fair construction of his general purpose and *animus* in writing, of which the jury were to judge. This was the last trial for libel which occurred before Mr. Fox's libel bill. Mr. Erskine had done all that eloquence, courage, and forensic skill could do for the liberty of the press and the rights of juries.

Mr. Fox's Libel Bill, May 20th, 1791.

It now only remained for the legislature to accomplish what had been too long postponed. In May, 1791, Mr. Fox made noble amends for his flippant speech upon the libel laws, twenty years before. Admitting that his views had then been mistaken, he now exposed the dangerous anomaly of the law, in a speech of great argumentative power and learning. Mr. Erskine's defence of the Dean of St. Asaph he pronounced to be "so eloquent, so luminous, and so convincing, that it wanted but in opposition to it, not a man, but a giant." If the doctrine of the courts was right in cases of libel, it would be right in cases of treason. He might himself be tried for writing a paper charged to be an overt act of treason. In the fact of publication the jury would find a verdict of guilty; and if no motion were made in arrest of judgment, the court would say, "let him be hanged and quartered." A man would thus lose his life without the judgment of his peers. He was worthily seconded[1] by Mr. Erskine, whose name will ever be associated with that important measure. His arguments need not be recapitulated. But one statement, illustrative of the law, must not be omitted. After showing that the judges had usurped the unquestionable privilege of the jury to decide upon the guilt or innocence of the accused, he stated, "that if, upon a motion in arrest of judgment, the innocence of the defendant's intention was argued before the court, the answer would be and was given uniformly, that the verdict of guilty had concluded the criminality of the intention, though

[1] The motion was one of form, "that the Grand Committee for Courts of Justice do sit on Tuesday next."

the consideration of that question had been, by the judge's authority, wholly withdrawn from the jury at the trial."

The opinion of the Commons had now undergone so complete a change upon this question, that Mr. Fox's views found scarcely any opponents. The attorney-general supported him, and suggested that a bill should be at once brought in for declaring the law, to which Mr. Fox readily assented. Mr. Pitt thought it necessary "to regulate the practice of the courts in the trial of libels, and render it conformable to the spirit of the constitution." The bill was brought in without a dissentient voice, and passed rapidly through the House of Commons.[1]

In the Lords, however, its further progress was opposed by Lord Thurlow, on account of its importance, and the late period of the session. Lord Camden supported it, as a declaration of what he had ever maintained to be the true principles of the law in England. The bill was put off for a month, without a division; but two protests were entered against its postponement.[2]

In the following session Mr. Fox's bill was again unanimously passed by the Commons. In the Lords it met with renewed opposition from Lord Thurlow, at whose instance the second reading was postponed, until the opinions of the judges could be obtained upon certain questions.[3] Seven questions were submitted to the judges,[4] and on the 11th of May, their answers were returned. Had anything been wanting to prove the danger of those principles of law which it was now sought to condemn, it would have been supplied from the unanimous answers of the judges. These principles, it seemed, were not confined to libel: but the criminality or innocence of any act was "the result of the judgment which the law pronounces upon that act, and must, therefore, be, in all cases and under all circumstances,

Libel Bill, 1792.

March 20th, 1792.

Opinion of the judges, April 27th

May 11th.

1 Parl. Hist., xxix. 551–602.
2 *Ibid.*, 726–742.
3 *Ibid.*, 1036.
4 *Ibid.*, 1293.

matter of law, and not matter of fact." They even maintained, — as Mr. Fox had argued, — that the criminality or innocence of letters or papers set forth as overt acts of treason was matter of law, and not of fact; yet shrinking from so alarming a conclusion, they added that they had offered no opinion "which will have the effect of taking matter of law out of the general issue, or out of a general verdict."[1] Lord Camden combated the doctrines of the judges, and repeated his own matured and reiterated opinion of the law. The bill was now speedily passed; with a protest, signed by Lord Thurlow and five other lords, predicting "the confusion and destruction of the law of England."[2]

Results of the Libel Act.

And thus, to the immortal honor of Mr. Fox, Mr. Erskine, Lord Camden, and the legislature, was passed the famous Libel Bill of 1792,[3] in opposition to all the judges and chief legal authorities of the time. Being in the form of a declaratory law, it was in effect a reversal of the decisions of the judges by the High Court of Parliament. Its success was undoubted for all the purposes for which it was designed. While it maintained the rights of juries, and secured to the subject a fair trial by his peers, it introduced no uncertainty in the law, nor dangerous indulgence to criminals. On the contrary, it was acknowledged that government was better protected from unjust attacks, when juries were no longer sensitive to privileges withheld, and jealous of the bench which was usurping them.[4]

[1] Parl. Hist., xxix. 1361.

[2] *Ibid.*, 1404, 1534–1538; Ann. Reg., 1792, p. 353; Chron. 69; Lord Campbell's Lives of the Chancellors, v. 346. It was followed by a similar law passed by the Parliament of Ireland.

[3] 32 Geo. III. c. 60. Lord Macaulay says: "Fox and Pitt are fairly entitled to divide the high honor of having added to our statute book the inestimable law which places the liberty of the press under the protection of juries." This is cited and accepted by Lord Stanhope in his Life of Pitt, ii. 148: but why such prominence to Pitt, and exclusion of Erskine?

[4] Lord Erskine's Speeches, i. 382, *n.*; Lord Campbell's Lives of the Chancellors, v. 350.

Since the beginning of this reign, the press had made great advances in freedom, influence, and consideration. The right to criticise public affairs, to question the acts of the government, and the proceedings of the legislature, had been established. Ministers had been taught, by the constant failure of prosecutions,[1] to trust to public opinion for the vindication of their measures, rather than to the terrors of the law for the silencing of libellers. Wilkes and Junius had at once stimulated the activity of the press, and the popular interest in public affairs. Reporters and printers having overcome the resistance of Parliament to the publication of debates,[2] the press was brought into closer relations with the state. Its functions were elevated, and its responsibilities increased. Statesmen now had audience of the people. They could justify their own acts to the world. The falsehoods and misrepresentations of the press were exposed. Rulers and their critics were brought face to face, before the tribunal of public opinion. The sphere of the press was widely extended. Not writers only, but the first minds of the age, — men ablest in council and debate, — were daily contributing to the instruction of their countrymen. Newspapers promptly met the new requirements of their position. Several were established during this period, whose high reputation and influence have survived to our own time;[3] and by fulness and rapidity of intelligence, frequency of publication, and literary ability, proved themselves worthy of their honorable mission to instruct the people.

General progress of free discussion in the press.

Nor is it unworthy of remark that art had come to the aid of letters in political controversy. Since the days

Caricatures.

[1] On the 27th Nov., 1770, the Attorney-General De Grey "declared solemnly that he had hardly been able to bring a single offender to justice." — *Parl. Hist.*, xvi. 1138.

[2] *Supra*, Vol. I. 390–406.

[3] Viz., The Morning Chronicle, 1769 (extinct in 1862); The Morning Post, 1772; the Morning Herald, 1780: The Times, founded in 1788, holds an undisputed position as the first newspaper in the world. — *Hunt's Fourth Estate*, ii. 99–189.

of Walpole, caricatures had occasionally portrayed ministers in grotesque forms and with comic incidents; but during this period, caricaturists had begun to exercise no little influence upon popular feeling. The broad humor and bold pencil of Gillray had contributed to foment the excitement against Mr. Fox and Lord North; and this skilful limner elevated caricature to the rank of a new art. The people were familiarized with the persons and characters of public men: crowds gathered round the printsellers' windows; and as they passed on, laughing good-humoredly, felt little awe or reverence for rulers whom the caricaturist had made ridiculous. The press had found a powerful ally, which, first used in the interests of party, became a further element of popular force.[1]

Public meetings and associations.

Meanwhile, other means had been devised, — more powerful than the press, — for directing public opinion and exercising influence over the government and the legislature. Public meetings had been assembled, political associations organized, and "agitation," — as it has since been termed, — reduced to a system. In all ages and countries, and under every form of government, the people have been accustomed, in periods of excitement, to exercise a direct influence over their rulers. Sometimes by tumults and rebellions, sometimes by clamors and discontent, they have made known their grievances, and struggled for redress.[2] In England, popular feelings had too often exploded in civil wars and revolutions; and, in more settled times, the people had successfully overborne the government and the legislature. No minister, however powerful, could be wholly deaf to their clamors. In 1733 Sir Robert Walpole had been forced to withdraw his excise scheme.[3] In 1754

[1] Wright's England under the House of Hanover, i. 136, 403; ii. 74–83, &c.; Twiss's Life of Eldon, i. 162; Lord Stanhope's Life of Pitt, i. 239.

[2] "Pour la populace, ce n'est jamais par envie d'attaquer qu'elle se soulève, mais par impatience de souffrir."—*Mem. de Sully*, i. 133.

[3] Parl. Hist., viii. 1306; ix. 7; Coxe's Walpole. i. 372; Lord Hervey's Mem., i. 185, *et seq.*

Parliament had been compelled to repeal a recent act of just toleration, in deference to popular prejudices.[1]

In the beginning of this reign, the populace had combined with the press in hooting Lord Bute out of the king's service; and for many years afterwards popular excitement was kept alive by the ill-advised measures of the Court and Parliament. It was a period of discontent and turbulence.

In 1765, the Spitalfields' silk-weavers, exasperated by the rejection of a bill for the protection of their trade by the House of Lords, paraded in front of St. James' Palace with black flags, surrounded the Houses of Parliament at Westminster, and questioned the peers as they came out, concerning their votes. May 15th. They assailed the Duke of Bedford, at whose instance the bill had been thrown out; and having been dispersed by cavalry in Palace Yard, they proceeded to attack May 17th. Bedford House, whence they were repulsed by the guards.[2] It was an irregular and riotous attempt to overawe the deliberations of Parliament. It was tumult of the old type, opposed alike to law and rational liberty; but it was not the less successful. Encouraged by the master-manufacturers, and exerted in a cause then in high favor with statesmen, it was allowed to prevail. Lord Halifax promised to satisfy the weavers;[3] and in the next year, to their great joy, a bill was passed restraining the importation of foreign silks.[4]

The Silk-weavers' riots, 1765.

But the general discontents of the time shortly developed other popular demonstrations far more formidable, which were destined to form a new era in constitutional government. In 1768, the excitement of the populace in the cause of Wilkes led to riots and a conflict

Popular excitement, 1768.

[1] Naturalization of Jews, 1754.

[2] Ann. Reg., 1765, p. 41; Grenville Papers, iii. 168–172; Walp. Mem., ii. 155, *et seq.*; Rockingham Mem., i. 200, 207; Adolphus' Hist., i. 177; Lord Mahon's Hist., v. 152.

[3] He wrote to Lord Hillsborough to assure the master-weavers that the bill should pass both Houses. — *Rockingham Mem.*, i. 200–207.

[4] 6 Geo. III. c. 28.

with the military. But the tumultuous violence of mobs was succeeded by a deeper and more constitutional agitation. The violation of the rights of the electors of Middlesex by the Commons,[1] united, in support of Wilkes, the first statesmen of the time, the parliamentary opposition, the wronged electors, the magistrates and citizens of London, a large body of the middle classes, the press, and the populace. Enthusiastic meetings of freeholders were assembled to support their champion, with whom the freeholders of other counties made common cause. The throne was approached by addresses and remonstrances. Junius thundered forth his fearful invectives. Political agitation was rife in various forms; but its most memorable feature was that of public meetings, which at this period began to take their place among the institutions of the country.[2] No less than seventeen counties held meetings to support the electors of Middlesex.[3] Never had so general a demonstration of public sentiment been made, in such a form. It was a new phase in the development of public opinion. This movement was succeeded by the formation of a "society for supporting the bill of rights."

Public meetings and associations, 1768–70.

Ten years later, public meetings assumed more importance and a wider organization. The freeholders of Yorkshire and twenty-three other counties, and the inhabitants of many cities, were assembled by their sheriffs and chief magistrates to discuss economical and parliamentary reform. These meetings were attended by the leading men of each neighborhood; and speeches were made, and resolutions and petitions agreed to, with a view to influence Parliament, and attract public support to the cause.

Public meetings, 1779–80.

[1] *Supra*, Vol. I. 374–383.

[2] Ann. Reg., 1770, p. 58, 60. On the 31st October, 1770, a large meeting of the electors of Westminster was held in Westminster Hall, when Mr. Wilkes counselled them to instruct their members to impeach Lord North. — Adolphus' Hist., i. 451; Ann. Reg., 1770, p. 159; Chron., 206; Lord Rockingham's Mem., ii. 93; Cooke's Hist. of Party, iii. 187.

[3] Ann. Reg., 1770, p. 58.

A great meeting was held in Westminster Hall, with Mr. Fox in the chair, which was attended by the Duke of Portland, and many of the most eminent members of the Opposition. Nor were these meetings spontaneous in each locality. They were encouraged by active correspondence, association, and concerted movements throughout the country.[1] Committees of correspondence and association were appointed by the several counties, who kept alive the agitation; and delegates were sent to London to give it concentration. This practice of delegation was severely criticised in Parliament. Its representative principle was condemned as a derogation from the rights of the legislature: no county delegates could be recognized, but knights of the shire returned by the sheriff. Mainly on this ground, the Commons refused to consider a petition of thirty-two delegates who signed themselves as freeholders only.[2] The future influence of such an organization over the deliberations of Parliament was foreseen; but it could not be prevented. Delegates were a natural incident to association. Far from arrogating to themselves the power of the Commons, they approached that body as humble petitioners for redress. They represented a cause, — not the people. So long as it was lawful for men to associate, to meet, to discuss, to correspond, and to act in concert for political objects, they could select delegates to represent their opinions. If their aims were lawful and their conduct orderly, no means which they deemed necessary for giving effect to free discussion were unconstitutional; and this system, — subject, however, to certain restraints,[3] — has generally found a place in later political organizations. Other political societies and clubs were now established;[4] and the principle of association was brought

Political associations.

[1] *Supra*, Vol. I. 412; Ann. Reg., 1780, p. 85; Parl. Hist., xx. 1378; Wyvill's Political Papers, i. 1, *et seq.*; Wraxall's Mem., iii. 292, &c.; Rockingham Mem., ii. 391–403; Lord J. Russell's Life of Fox, i. 222.

[2] 13th Nov., 1780; 2d April and 8th May, 1781; Parl. Hist., xxi. 844; xxii. 95, 138.

[3] *Infra*, pp. 174, 185.

[4] Adolphus' Hist., iii. 233

into active operation, with all its agencies. At this time Mr. Pitt, the future enemy of political combinations, encouraged associations to forward the cause of parliamentary reform, took counsel with their delegates, and enrolled himself a member of the society for constitutional information.[1]

Political associations considered.

Here were further agencies for working upon the public mind, and bringing the popular will to bear upon affairs of state. Association for political purposes, and large assemblages of men, henceforth became the most powerful and impressive form of agitation. Marked by reality and vital power, they were demonstrations at once of moral conviction and numerical force. They combined discussion with action. However forcibly the press might persuade and convince, it moved men singly in their homes and business; but here were men assembled to bear witness to their earnestness: the scattered forces of public opinion were collected and made known: a cause was popularized by the sympathies and acclamations of the multitude. The people confronted their rulers bodily, as at the hustings.[2]

Again, association invested a cause with permanent interest. Political excitement may subside in a day: but a cause adopted by a body of earnest and active men is not suffered to languish. It is kept alive by meetings, deputations, correspondence, resolutions, petitions, tracts, advertisements. It is never suffered to be forgotten: until it has triumphed, the world has no peace.

Public meetings and associations were now destined to exercise a momentous influence on the state. Their force was great and perilous. In a good cause, and directed by wise

[1] See resolutions agreed to at a meeting of members and delegates at the Thatched House Tavern, May 18th, 1782, in Mr. Pitt's own writing. State Tr., xxii. 492; also Mr. Pitt's evidence on the Trial of Horne Tooke. — *Ibid.*, xxv. 381.

[2] "L'association possède plus de puissance que la presse" . . . . . "Les moyens d'exécution se combinent, les opinions se déploient avec cette force, et cette chaleur, que ne peut jamais attendre la pensée écrite." — *De Tocqueville, Démocr. en Amerique*, i. 277.

and honorable men, they were designed to confer signal benefits upon their country and mankind. In a bad cause, and under the guidance of rash and mischievous leaders, they were ready instruments of tumult and sedition. The union of moral and physical force may convince, but it may also practise intimidation: arguments may give place to threats, and fiery words to deeds of lawless violence.[1] Our history abounds with examples of the uses and perils of political agitation.

The dangers of such agitation were exemplified at this very time, in their worst form, by the Protestant associations. In 1778, the legislature having conceded to the Catholics of England a small measure of indulgence, a body of Protestant zealots in Scotland associated to resist its extension to that country. So rapidly had the principle of association developed itself, that no less than eighty-five societies, or corresponding committees, were established in communication with Edinburgh. The fanaticism of the people was appealed to by speeches, pamphlets, handbills, and sermons, until the pious fury of the populace exploded in disgraceful riots. Yet was this wretched agitation too successful. The Catholics of Scotland waived their just rights for the sake of peace; and Parliament submitted its own judgment to the arbitrament of Scottish mobs.[2]

Protestant associations, 1778–80.

This agitation next extended to England. A Protestant association was formed in London, with which numerous local societies, committees, and clubs in various parts of the kingdom, were affiliated. Of this extensive confederation, in both countries, Lord George Gordon was elected president. The Protestants of Scotland had overawed the legislature: might not the Protestants of

Lord George Gordon, president.

[1] "On ne peut se dissimuler que la liberté illimitée d'association, en matière politique, ne soit, de toutes les libertés, la dernière qu'un peuple puisse supporter. Si elle ne la fait pas tomber dans l'anarchie, elle la lui fait, pour ainsi dire, toucher à chaque instant." — *De Tocqueville, Démocr.* i. 231.

[2] *Infra*, p. 323.

England advance their cause by intimidation? The experiment was now to be tried. On the 29th of May, 1780, Lord George Gordon called a meeting of the Protestant Association, at Coachmakers' Hall, where a petition to the Commons was agreed to, praying for the repeal of the late Catholic Relief Act. Lord George, in haranguing this meeting, said that, "if they meant to spend their time in mock debate and idle opposition, they might get another leader;" and declared that he would not present their petition, unless attended by 20,000 of his fellow-citizens. For that purpose, on the 2d of June, a large body of petitioners and others, distinguished by blue cockades, assembled in St. George's Fields, whence they proceeded by different routes to Westminster, and took possession of Palace Yard, before the two Houses had yet met. As the peers drove down to the meeting of their House, several were assailed and pelted. Lord Boston was dragged from his coach, and escaped with difficulty from the mob. At the House of Commons, the mob forced their way into the lobby and passages, up to the very door of the House itself. They assaulted and molested many members, obliged them to wear blue cockades, and shout "no popery!"

Meeting at Coachmakers' Hall, May 29th, 1780.

Disorders at Westminster, June 2d.

Though full notice had been given of such an irregular assemblage, no preparations had been made for maintaining the public peace and securing Parliament from intimidation. The Lords were in danger of their lives; yet six constables only could be found to protect them. The Commons were invested; but their doorkeepers alone resisted the intrusion of the mob. While this tumult was raging, Lord George Gordon proceeded to present the Protestant petition, and moved that it should be immediately considered in committee. Such a proposal could not be submitted to in presence of a hooting mob; and an amendment was moved to postpone the consideration of the petition till another day. A debate ensued, during which

Houses of Parliament invested.

disorders were continued in the lobby and in Palace Yard. Sometimes the House was interrupted by violent knocks at the door, and the rioters seemed on the point of bursting in. Members were preparing for defence, or to cut their way out with their swords. Meanwhile, the author of these disorders went several times into the lobby, and to the top of the gallery stairs, where he harangued the people, telling them that their petition was likely to meet with small favor, and naming the members who opposed it. Nor did he desist from this outrageous conduct, until Colonel Murray, a relative of his own, threatened him with his sword, on the entrance of the first rioter. When a division was called, the sergeant reported that he could not clear the lobby; and the proceedings of the House were suspended for a considerable time. At length, a detachment of military having arrived, the mob dispersed, the division was taken, and the House adjourned.[1]

The scene at Westminster had been sufficiently disgraceful: but it was merely the prelude to riots and incendiarism, by which London was desolated for a week. On the 6th, the Protestant petition was to be considered. Measures had been taken to protect the legislature from further outrage: but Lord Stormont's carriage was attacked and broken to pieces; Mr. Burke was for some time in the hands of the mob; and an attempt was made upon Lord North's official residence in Downing Street. The Commons agreed to resolutions in vindication of their privileges, and pledging themselves to consider the petition when the tumults should subside.[2]

Riots in London.

Meanwhile, the outrages of the mob were encouraged by the supineness and timidity of the government and magistracy, until the whole metropolis was threatened with conflagration. The chapels of Catholic ambassadors were burned, prisons broken open, the houses of magistrates and

[1] Ann. Reg., 1780, 190, *et seq.*; Parl. Hist., xxi. 654–686; State Tr. xxi. 486.

[2] Parl. Hist., xxi. 661.

statesmen destroyed; the residence of the venerable Mansfield, with his books and priceless manuscripts, reduced to ashes. Even the bank of England was threatened. The streets swarmed with drunken incendiaries. At length the devastation was stayed by the bold decision of the king. "There shall, at least, be one magistrate in the kingdom," said he, "who will do his duty;" and by his command a proclamation was immediately issued, announcing that the king's officers were instructed to repress the riots; and the military received orders to act without waiting for directions from the civil magistrate. The military were prompt in action; and the rioters were dispersed with bloodshed and slaughter.[1]

Military action in the absence of a magistrate.

The legality of military interference, in the absence of a magistrate, became afterwards the subject of discussion. It was laid down by Lord Mansfield, that the insurgents having been engaged in overt acts of treason, felony, and riot, it was the duty of every subject of His Majesty, — and not less of soldiers than of other citizens, — to resist them. On this ground was the proclamation justified, and the action of the military pronounced to be warranted by law. His authority was accepted as conclusive. It was acknowledged that the executive, in times of tumult, must be armed with necessary power: but with how little discretion had it been used? Its timely exercise might have averted the anarchy and outrages of many days, — perhaps without bloodshed. Its tardy and violent action, at the last, had added to the evils of insurrection a sanguinary conflict with the people.[2]

Such was the sad issue of a distempered agitation in an unworthy cause, and conducted with intimidation and violence. The foolish and guilty leader of the movement

[1] Ann. Reg., 1780, 265, *et seq.* Nearly three hundred lives were known to have been lost; and one hundred and seventy-three wounded persons were received into the hospitals.

[2] Debates of Lords and Commons, June 19th, 1780; Parl. Hist., xxi 690–701; Debate on Mr. Sheridan's motion (Westminster Police), March 5th, 1781; *Ibid.*, 1305.

escaped a conviction for high treason, to die, some years later, in Newgate, a victim to the cruel administration of the law of libel ; [1] and many of the rioters expiated their crimes on the scaffold.

A few years later another association was formed, to forward a cause of noble philanthropy, — the abolition of the slave trade. It was almost beyond the range of politics. It had no constitutional change to seek : no interest to promote : no prejudice to gratify : not even the national welfare to advance. Its clients were a despised race, in a distant clime, — an inferior type of the human family, — for whom natures of a higher mould felt repugnance rather than sympathy. Benevolence and Christian charity were its only incentives. On the other hand, the slave-trade was supported by some of the most powerful classes in the country, — merchants, shipowners, planters. Before it could be proscribed, vested interests must be overborne, ignorance enlightened, prejudices and indifference overcome, public opinion converted. And to this great work did Granville Sharpe, Wilberforce, Clarkson, and other noble spirits devote their lives. Never was cause supported by greater earnestness and activity. The organization of the society comprehended all classes and religious denominations. Evidence was collected from every source, to lay bare the cruelties and iniquity of the traffic. Illustration and argument were inexhaustible. Men of feeling and sensibility appealed, with deep emotion, to the religious feelings and benevolence of the people. If extravagance and bad taste sometimes courted ridicule ; the high purpose, just sentiments, and eloquence of the leaders of this movement won respect and admiration. Tracts found their way into every house : pulpits and platforms resounded with the wrongs of the negro : petitions were multiplied : ministers and Parliament moved to inquiry and action. Such a mission was not to be soon accomplished. The cause could not be won by sudden

Slave Trade Association, 1787.

[1] State Tr., xxii. 175–236; Ann. Reg., 1793, Chron. 3.

enthusiasm, — still less by intimidation; but conviction must be wrought in the mind and conscience of the nation. And this was done. Parliament was soon prevailed upon to attempt the mitigation of the worst evils which had been brought to light; and in little more than twenty years, the slave-trade was utterly condemned and prohibited.[1] A good cause prevailed, — not by violence and passion, not by demonstrations of popular force, but by reason, earnestness and the best feelings of mankind.

Progress of public opinion, 1760–1792.

At no former period had liberty of opinion made advance so signal, as during the first thirty years of this reign. Never had the voice of the people been heard so often, and so loudly, in the inner councils of the state. Public opinion was beginning to supply the defects of a narrow representation. But evil days were now approaching, when liberties so lately won were about to be suspended. Wild and fanatical democracy, on the one hand transgressing the bounds of rational liberty; and a too sensitive apprehension of its dangers, on the other, were introducing a period of reaction, unfavorable to popular rights.

Democratic publications, 1792.

In 1792, the deepening shadows of the French revolution had inspired the great body of the people with sentiments of grave reprobation; while a small, but noisy and turbulent, party, in advocating universal suffrage and annual parliaments, were proclaiming their admiration of French principles, and sympathy with the Jacobins of Paris. Currency was given to their opinions in democratic tracts, handbills, and newspapers, conceived in the spirit of sedition. Some of these papers were the work of authors expressing, as at other times, their own individual sentiments: but many were disseminated, at a low price, by democratic associations, in correspondence with France.[2]

[1] Clarkson's Hist. of the Slave Trade, i. 288, &c.; Wilberforce's Life, i. 139–173, &c.

[2] Ann. Reg., 1792, p. 365; Hist. of the Two Acts, Introd., xxxvii.; Adolphus' Hist., v. 67; Tomline's Life of Pitt, iii. 272.

One of the most popular and dangerous of these publications was Paine's second part of the "Rights of Man."

Instead of singling out any obnoxious work for a separate prosecution, the government issued, on the 21st of May, 1792, a proclamation warning the people against wicked and seditious writings, industriously dispersed amongst them, — commanding magistrates to discover the authors, printers, and promulgators of such writings, and sheriffs and others to take care to prevent tumults and disorders. This proclamation, having been laid before Parliament, was strongly denounced by Mr. Grey, Mr. Fox, and other members of the opposition, who alleged that it was calculated to excite groundless jealousies and alarms,[1] — the government already having sufficient powers, under the law, to repress license or disaffection.

Proclamation, May 21st, 1792.

Both Houses, however, concurred in an address to the king, approving of the objects of the proclamation, and expressing indignation at any attempts to weaken the sentiments of the people in favor of the established form of government.[2]

Thomas Paine was soon afterwards brought to trial. He was defended by Mr. Erskine, whom neither the displeasure of the king and the Prince of Wales, nor the solicitations of his friends, nor public clamors, had deterred from performing his duty as an advocate.[3] To vindicate such a book, on its own merits, was not to be attempted; but Mr. Erskine contended that, according to the laws of England, a writer is at liberty to address the reason of the nation upon the constitution and government, and is criminal only if he seeks to excite them to disobey the law, or calumniates living magistrates. He maintained "that opinion is free, and that conduct alone is amenable to the

Trial of Thomas Paine, Dec 18th, 1792.

[1] See also *supra*, p. 44

[2] Parl. Hist., xxix. 1476–1534; Tomline's Life of Pitt, iii. 347; Lord Malmesbury's Corr., ii. 441. There had been similar proclamations in the reigns of Queen Anne and George I.

[3] St. Tr., xxvi. 715; Lord Campbell's Lives of the Chancellors, vi. 455

law." He himself condemned Mr. Paine's opinions; but his client was not to be punished because the jury disapproved of them as opinions, unless their character and intention were criminal. And he showed from the writings of Locke, Milton, Burke, Paley, and other speculative writers, to what an extent abstract opinions upon our constitution had been expressed, without being objected to as libellous. Paine was very properly found guilty:[1] but the general principles expounded by his advocate, to which his contemporaries turned a deaf ear, have long been accepted as the basis on which liberty of opinion is established.

Alarm of the government and magistracy.

Meanwhile, the fears of democracy, of the press, and of speculative opinions, were further aggravated by the progress of events in France and the extravagance of English democrats.

Democratic associations.

Several societies, which had been formed for other objects, now avowed their sympathy and fellowship with the revolutionary party in France, addressed the National Convention, corresponded with political clubs and public men in Paris, and imitated the sentiments, the language, and the cant then in vogue across the channel.[2] Of these the most conspicuous were the "Revolution Society," the "Society for Constitutional Information," and the "London Corresponding Society." The Revolution Society had been formed long since, to commemorate the English revolution of 1688, and not that of France, a century later. It met annually on the 4th of November, when its principal toasts were the memory of King William, trial by jury, and the liberty of the press. On the 4th of Nov., 1788, the centenary of the revolution had been commemorated throughout the country by men of all parties; and the Revolution Society had been attended by a secretary of state and other distinguished persons.[3] But the excitement of the times quickened it with a

The Revolution Society.

[1] St. Tr., xxii. 357.

[2] Ann. Reg, 1792, part ii. 128–170, 344.

[3] History of the Two Acts, Introd. xxxv.

new life; and historical sentiment was lost in political agitation. The example of France almost effaced the memory of William.[1] The Society for Constitutional Information had been formed in 1780, to instruct the people in their political rights, and to forward the cause of parliamentary reform. Among its early members were the Duke of Richmond, Mr. Fox, Mr. Pitt himself, and Mr. Sheridan. These soon left the society; but Mr. Wyvill, Major Cartwright, Mr. Horne Tooke, and a few more zealous politicians, continued to support it, advocating universal suffrage and distributing obscure tracts. It was scarcely known to the public: its funds were low; and it was only saved from a natural death by the French revolution.[2]

Society for Constitutional Information.

The London Corresponding Society, — composed chiefly of working men, — was founded in the midst of the excitement caused by events in France. It sought to remedy all the grievances of society, real or imaginary, to correct all political abuses, and particularly to obtain universal suffrage and annual parliaments. These objects were to be secured by the joint action of affiliated societies throughout the country. The scheme embraced a wide correspondence, not only with other political associations in England, but with the National Convention of France and the Jacobins of Paris. The leaders were obscure, and, for the most part, illiterate men; and the proceedings of the society were more conspicuous for extravagance and folly than for violence. Arguments for universal suffrage were combined with abstract speculations

London Corresponding Society.

[1] Abstract of the History and Proceedings of the Revolution Society, 1789; Sermon by Dr. Price, with Appendix, 1789; "The Correspondence of the Revolution Society in London," &c., 1792; Ann. Reg., 1792, part i. 165, 311, 366; part ii. 135; App. to Chron., 128, *et seq.*; Adolphus' Hist., iv. 543, v. 211.

[2] Stephen's Life of Horne Tooke, i. 435; ii. 144; Hist. of the Two Acts, Introd. xxxvii. Adolphus' Hist., v. 212; Lord Stanhope's Life of Pitt, ii 85.

and conventional phrases, borrowed from France, — wholly foreign to the sentiments of Englishmen and the genius of English liberty. Their members were "citizens," the king was "chief magistrate." [1]

These societies, animated by a common sentiment, engaged in active correspondence; and published numerous resolutions and addresses of a democratic, and sometimes of a seditious character. Their wild and visionary schemes, — however captivating to a lower class of politicians, — served only to discredit and endanger liberty. They were repudiated by the "Society of the Friends of the People," [2] and by all the earnest but temperate reformers of that time: they shocked the sober, alarmed the timid, and provoked — if they did not justify — the severities of the government.

In ordinary times, the insignificance of these societies would have excited contempt rather than alarm; but as clubs and demagogues, originally not more formidable, had obtained a terrible ascendency in France, they aroused apprehensions out of proportion to their real danger. In presence of a political earthquake, without a parallel in the history of the world, every symptom of revolution was too readily magnified.

Exaggerated alarms.

There is no longer room for doubt that the alarm of this period was exaggerated and excessive. Evidence was not forthcoming to prove it just and well founded. The societies, however mischievous, had a small following: they were not encouraged by any men of influence: the middle classes repudiated them: society at large condemned them. None of the causes which had precipitated the revolution in France were in existence here. The evils of an absolute government had long been

[1] Ann. Reg., 1792, p. 366; 1793, p. 165; App. to Chron., 75, 1794, p 129; Adolphus' Hist., v. 212; Tomline's Life of Pitt, iii. 272, 321; Lord J. Russell's Life of Fox, ii. 284; Belsham's Hist., viii. 495, 499.

[2] See *supra*, Vol. I. 319; Lord J. Russell's Life of Fox, ii. 293.

corrected. We had no *lettres de cachet*, nor Bastille: no privileged aristocracy: no impassable gulf between nobles and the commonalty: no ostracism of opinion. We had a free constitution, of which Englishmen were proud; a settled society, with just gradations of rank, bound together by all the ties of a well-ordered commonwealth; and our liberties, long since secured, were still growing with the greatness and enlightenment of the people. In France there was no bond between the government and its subjects but authority: in England, power rested on the broad basis of liberty. So stanch was the loyalty of the country, that where one person was tainted with sedition, thousands were prepared to defend the law and constitution with their lives. The people, as zealous in the cause of good order as their rulers, were proof against the seductions of a few pitiful democrats. Instead of sympathizing with the French revolution, they were shocked at its bloody excesses, and recoiled with horror from its social and religious extravagances. The core of English society was sound. Who that had lately witnessed the affectionate loyalty of the whole people, on the recovery of the king from his affliction, could suspect them of republicanism?

Repressive policy, 1792.

Yet their very loyalty was now adverse to the public liberties. It showed itself in dread and hatred of democracy. Repression and severity were popular, and sure of cordial support. The influential classes, more alarmed than the government, eagerly fomented the prevailing spirit of reaction. They had long been jealous of the growing influence of the press and popular opinion. Their own power had been disturbed by the political agitation of the last thirty years, and was further threatened by parliamentary reform. But the time had now come for recovering their ascendency. The democratic spirit of the people was betraying itself; and must be crushed out, in the cause of order. The dangers of parliamentary reform were illustrated by clamors for uni-

versal suffrage, annual parliaments, and the rights of man; and reformers of all degrees were to be scouted as revolutionary.

The calm and lofty spirit of Mr. Pitt was little prone to apprehension. He had discountenanced Mr. Burke's early reprobation of the French revolution: he had recently declared his confidence in the peace and prosperity of his country; and had been slow to foresee the political dangers of events in France. But he now yielded to the pressure of Mr. Burke and an increasing party in Parliament; and while he quieted their apprehensions, he secured for himself a vast addition of moral and material support. Enlarging his own party, and breaking up the opposition, he at the same time won public confidence.

It was a crisis of unexampled difficulty, — needing the utmost vigilance and firmness. Ministers, charged with the maintenance of order, could not neglect any security which the peril of the time demanded. They were secure of support in punishing sedition and treason: the guilty few would meet with no sympathy among a loyal people. But, counselled by their new chancellor and convert, Lord Loughborough, and the law officers of the crown, the government gave too ready a credence to the reports of their agents; and invested the doings of a small knot of democrats — chiefly workingmen — with the dignity of a wide-spread conspiracy to overturn the constitution. Ruling over a free state, they learned to dread the people, in the spirit of tyrants. Instead of relying upon the sober judgment of the country, they appealed to its fears; and in repressing seditious practices, they were prepared to sacrifice liberty of opinion. Their policy, dictated by the circumstances of a time of strange and untried danger, was approved by the prevailing sentiment of their contemporaries: but has not been justified, — in an age of greater freedom, — by the maturer judgment of posterity.

The next step taken by the government was calculated to

excite a panic. On the 1st of December, 1792, a proclamation was issued, stating that so dangerous a spirit of tumult and disorder had been excited by evil-disposed persons, acting in concert with persons in foreign parts, that it was necessary to call out and embody the militia. And Parliament, which then stood prorogued until the 3d of January, was directed to meet on the 13th of December. Proclamation. Dec. 1st, 1792.

The king's speech, on the opening of Parliament, repeated the statements of the proclamation; and adverted to designs, in concert with persons in foreign countries, to attempt "the destruction of our happy constitution, and the subversion of all order and government."[1] These statements were warmly combated by Mr Fox, who termed them "an intolerable calumny upon the people of Great Britain," and argued that the executive government were about to assume control, not only over the acts of the people, but over their very thoughts. Instead of silencing discussion, he counselled a forwardness to redress every grievance. Other speakers also protested against the exaggerated views of the state of the country which the administration had encouraged. They exhorted ministers to have confidence in the loyalty and sound judgment of the people; and, instead of fomenting apprehensions, to set an example of calmness and sobriety. But in both Houses addresses were voted,[2] giving the sanction of Parliament to the sentiments expressed from the throne.[3] The majority did not hesitate to permit popular privileges to be sacrificed to the prevailing panic. King's speech. Dec. 13th, 1792.

But as yet no evidence of the alleged dangers had been produced; and on the 28th of February, Mr. Sheridan proposed an inquiry, in a committee of the whole House. He denied the existence of se- Mr. Sheridan's motion, Feb. 28th, 1793.

[1] Comm. Journ., xlviii. 4; Parl. Hist., xxx. 6; Fox's Speeches, iv. 445

[2] In the Commons by a majority of 290 to 50.

[3] Parl. Hist., xxx. 1–80. Ann. Reg., 1793, p. 244–249.

ditious practices; and imputed to the government a desire to create a panic, in order to inflame the public mind against France, with which war was now declared, and to divert attention from parliamentary reform. The debate elicited no further evidence of sedition; but the motion was negatived without a division.[1]

Meanwhile, prosecutions of the press abounded, especially against publishers of Paine's works.[2] Seditious speaking was also vigilantly repressed. A few examples will illustrate the rigorous administration of the laws. John Frost, a respectable attorney, who had been associated with the Duke of Richmond and Mr. Pitt, a few years before, in promoting parliamentary reform, was prosecuted for seditious words spoken in conversation, after dinner, at a coffee-house. His words, reprehensible in themselves, were not aggravated by evidence of malice or seditious intent. They could scarcely be termed advised speaking; yet was he found guilty, and sentenced to six months' imprisonment, to stand in the pillory at Charing Cross, and to be struck off the roll of attorneys.[3] Mr. Winterbotham, a Baptist minister, was tried for uttering seditious words in two sermons. The evidence brought against him was distinctly contradicted by several witnesses; and in the second case, so weak was the evidence for the crown, and so conclusive his defence, that the judge directed an acquittal; yet in both cases the jury returned verdicts of guilty. The luckless minister was sentenced to four years' imprisonment, to pay two fines of 100*l.*, and to give security for his good behavior.[4] Thomas Briellat wa tried for the use of seditious words in conversations at a public-house and in a butcher's shop.

Trial of Frost, March, 1793.

Mr. Winterbotham, 1793.

Case of Thomas Briellat, 1793.

[1] Parl. Hist., xxx. 523.

[2] E. g., Daniel Isaac Eaton, Daniel Holt and others; State Tr., xxii. 574–822; *Ibid.*, xxiii. 214, &c. The Attorney-General stated, on the 13th December, 1792, that he had on his file 200 informations for seditious libels. — Adolphus' Hist., v. 524. See also Currie's Life, i. 185; Roscoe's Life, i. 124; Holcroft's Mem., ii. 151.

[3] St. Tr., xxii. 522.

[4] *Ibid.*, 823. 875.

Here again the evidence for the prosecution was contradicted by witnesses for the defence; but no credit being given to the latter, the jury returned a verdict of guilty; and Briellat was sentenced to twelve months' imprisonment, and to pay a fine of 100*l.*[1]

Dr. Hudson, Dec. 9th, 1793.

The trial of Dr. Hudson, for seditious words spoken at the London Coffee-House, affords another illustration of the alarmed and watchful spirit of the people. Dr. Hudson had addressed toasts and sentiments to his friend Mr. Pigott, who was dining with him in the same box. Other guests in the coffee-house overheard them, and interfered with threats and violence. Both the friends were given in charge to a constable: but Dr. Hudson was alone brought to trial.[2] He was found guilty, and sentenced to two years' imprisonment, and to pay a fine of 200*l.*[3]

Trials at Quarter Sessions.

Nor were such prosecutions confined to the higher tribunals. The magistrates, invited to vigilance by the king's proclamation, and fully sharing the general alarm, were satisfied with scant evidence of sedition; and if they erred in their zeal, were sure of being upheld by higher authorities.[4] And thus every incautious disputant was at the mercy of panic-stricken witnesses, officious constables, and country justices.

Voluntary societies for repressing sedition.

Another agency was evoked by the spirit of the times, — dangerous to the liberty of the press, and to the security of domestic life. Voluntary societies were established in London and throughout the country, for the purpose of aiding the executive government in the

[1] St. Tr., xxii. 910.

[2] The bill of indictment against Pigott was rejected by the grand jury.

[3] St. Tr., xxii. 1019.

[4] A yeoman in his cups being exhorted by a constable, as drunk as himself, to keep the peace in the king's name, muttered, "D— you and the king too:" for which the loyal quarter sessions of Kent sentenced him to a year's imprisonment. A complaint being made of this sentence to Lord Chancellor Loughborough, he said "that to save the country from revolution, the authority of all tribunals, high and low, must be upheld." — *Lord Campbell's Lives of the Chancellors*, vi. 265.

discovery and punishment of seditious writings or language. Of these the parent was the "Society for the protection of liberty and property against republicans and levellers." These societies, supported by large subscriptions, were busy in collecting evidence of seditious designs, — often consisting of anonymous letters, often of the reports of informers, liberally rewarded for their activity. They became, as it were, public prosecutors, supplying the government with proofs of supposed offences, and quickening its zeal in the prosecution of offenders. Every unguarded word at the club, the market-place, or the tavern, was reported to these credulous alarmists, and noted as evidence of disaffection.

Such associations were repugnant to the policy of our laws, by which the crown is charged with the office of bringing offenders to justice, while the people, represented by juries, are to judge, without favor or prejudice, of their guilt or innocence. But here the people were invited to make common cause with the crown against offenders, to collect the evidence, and prejudge the guilt. How then could members of these societies assist in the pure administration of justice, as jurymen and justices of the peace? In the country especially was justice liable to be warped. Local cases of sedition were tried at the Quarter Sessions, by magistrates who were leaders of these societies, and by jurors who, if not also members, were the tenants or neighbors of the gentlemen on the bench. Prosecutor, judge, and jury being all leagued against the accused, in a time of panic, how could any man demand with confidence to be tried by his peers?[1]

Apprehensions of democracy in Scotland.

Meanwhile, the authorities in Scotland were more alarmed by the French revolution than the English government; and their apprehensions were increased by the proceedings of several societies for democratic reform, and by the assembling in Edinburgh of a "convention of delegates of the associated friends of the

[1] Proceedings of the Friends of the Liberty of the Press, Jan. 1793; Erskine's Speeches, iv. 411.

people" from various parts of England and Scotland. The mission of these delegates was to discuss annual parliaments and universal suffrage; but the excitement of the times led them to an extravagance of language, and proceedings which had characterized other associations.[1] The government resolved to confront democracy and overawe sedition; but in this period of panic, even justice was at fault; and the law was administered with a severity discreditable to the courts and to the public sentiments of that country. Some of the persons implicated in obnoxious publications withdrew from the jurisdiction of the courts;[2] while those who remained found little justice or mercy.[3]

Thomas Muir, a young advocate of high talents and attainments, having exposed himself to suspicion by his activity in promoting the proscribed cause of parliamentary reform, and as a member of the convention of delegates, was brought to trial before the High Court of Justiciary at Edinburgh, for sedition. Every incident of this trial marked the unfairness and cruel spirit of his judges. Trial of Muir, Aug. 30th, 1793.

In deciding upon the relevancy of the indictment, they dilated upon the enormity of the offences charged, — which, in their judgment, amounted almost to high treason, — upon the excellence of our constitution,[4] and the terrors of the French revolution. It was plain that any attempt to amend our institutions was, in their eyes, a crime. All the jurymen, selected by the sheriff and picked by the presiding judge,[5] were members of an association at Goldsmith's Hall, who had erased Muir's name from their books as an enemy to the

[1] Ann. Reg., 1794, p. 129; State Tr., xxiii. 385, *et seq.*, 398.

[2] James Tytler, St. Tr., xxiii. 2; John Elder and William Stewart, *Ibid.* 25; James Smith and John Mennons, *Ibid.* 34; James T. Callender, *Ibid.* 84.

[3] See Trial of Walter Berry and James Robertson, State Tr., xxiii. 79.

[4] The Lord Justice Clerk (Lord Braxfield) termed it "the happiest, the best, and the most noble constitution in the world, and I do not believe it possible to make a better." — *St. Tr.*, xxiii. 132.

[5] State Tr., xix. 11, *n.*; Cockburn's Mem., 87.

constitution. He objected that such men had already prejudged his cause, but was told he might as well object to his judges, who had sworn to maintain the constitution! The witnesses for the crown failed to prove any seditious speeches, — while they all bore testimony to the earnestness with which he had counselled order and obedience to the law. Throughout the trial, he was browbeaten and threatened by the judges. A contemptible witness against him was "caressed by the prosecutor, and complimented by the court," — while a witness of his own was hurriedly committed for concealing the truth, without hearing Muir on his behalf, who was told that "he had no right or title to interfere in the business." In the spirit of a bygone age of judicature, the Lord Advocate denounced Muir as a demon of sedition and mischief. He even urged it as a proof of guilt that a letter had been found among his papers, addressed to Mr. Fyshe Palmer, who was about to be tried for sedition!

Muir defended himself in a speech worthy of the talents and courage which were to be crushed by this prosecution. Little did they avail him. He knew that he was addressing men by whom his cause had been prejudged; but he appealed worthily to the public and to posterity; and affirmed that he was tried, in truth, for promoting parliamentary reform. The Lord Justice Clerk, Braxfield,[1] confirmed this assertion, by charging the jury that to preach the necessity of reform, at a time of excitement, was seditious. This learned judge also harangued the jury upon parliamentary reform. "The landed interest alone had a right to be represented," he said; "as for the rabble, who have nothing but personal property, what hold has the nation of them?" Need it be told that the jury returned a verdict of guilty? And now the judges renewed their reflections upon the enor-

[1] Robert McQueen of Braxfield — Lord Braxfield, "was the Jeffreys of Scotland." "Let them bring me more prisoners, and I will find them aw," was said to have been his language to the government. — *Lord Cockburn's Mem.*, 116.

mity of the prisoner's crimes. Lord Henderland noticed the applause with which Muir's noble defence had been received by the audience, — which could not but admire his spirit and eloquence, — as a proof of the seditious feelings of the people; and though his lordship allowed that this incident should not aggravate Muir's punishment, proceeded to pass a sentence of transportation for fourteen years. Lord Swinton could scarcely distinguish Muir's crime from high treason, and said, with a ferocity unworthy of a Christian judge, "if punishment adequate to the crime of sedition were to be sought for, it could not be found in our law, now that torture is happily abolished." He concurred in the sentence of transportation, — referring to the Roman law where seditious criminals "*aut in furcam tolluntur, aut bestiis objiciuntur, aut in insulam deportantur.*" "We have chosen the mildest of these punishments," said his lordship! Lord Abercromby and the Lord Justice Clerk thought the defendant fortunate in having escaped with his life, — the penalty of treason; and the latter, referring to the applause with which Muir had been greeted, admitted that the circumstance had no little weight with him in considering the punishment.[1]

What was this but an avowal that public opinion was to be repressed and punished in the person of Muir, who was now within the grasp of the law? And thus, without even the outward show of a fair trial, Muir stood sentenced to a punishment of unwarrantable, if not illegal, severity.[2]

[1] St. Tr., xxiii. 118–238; Lord Campbell's Lives of the Chancellors, vi. 261. In reference to this trial, Lord Cockburn says, "if, instead of being a Supreme Court of Justice, sitting for the trial of guilt or innocence, it had been an ancient commission appointed by the crown to procure convictions, little of its judicial manner would have required to be changed." — *Memorials*, p. 100.

[2] There is little doubt that the law of Scotland did not authorize the sentence of transportation for sedition, but of banishment only. This was affirmed over and over again. In 1797 Mr. Fox said he was satisfied, "not merely on the authority of the most learned men of that country, but on the information he had himself been able to acquire, that no such law did exist in Scotland, and that those who acted upon it will one day be

The Rev. T. Fyshe Palmer, Sept. 12th, 1793.

A few days after this trial, the Rev. T. Fyshe Palmer[1] was tried for sedition before the Circuit Court of Justiciary at Perth. He was charged with circulating an address from "A Society of the friends of liberty to their fellow-citizens." However strong the language of this paper,[2] its sole object was to secure a reform of the House of Commons, to whose corruption and dependence were attributed all the evils which it denounced. His trial was conducted with less intemperance than that of Muir, but scarcely with more fairness. In deciding upon the relevancy of the indictment, the judges entertained no doubt that the paper was seditious, which they proved mainly by combating the truth of the propositions contained in it. The witnesses for the crown, who gave their evidence with much reluctance, proved that Palmer was not the author of the address; but had corrected it, and softened many of its expressions. That he was concerned in its printing and circulation, was clearly proved.

The judicial views of sedition may be estimated from part of Lord Abercromby's summing up. "Gentlemen," said he, "the right of universal suffrage the subjects of this country never enjoyed; and were they to enjoy it, they would not long enjoy either liberty or a free constitution. You will, therefore, consider whether telling the people that they have a just right to what would unquestionably be tantamount to a total subversion of this constitution, is such

brought to a severe retribution for their conduct." — *Parl. Hist.*, xxxiii. 616.

It seems also that the Act 25 Geo. III. c. 46, for removing offenders, in Scotland, to places of temporary confinement, had expired in 1788; and that "Muir and Palmer were nevertheless removed from Scotland and transported to Botany Bay, though there was no statute then in force to warrant it. — *Lord Colchester's Diary*, i. 50.

[1] Mr. Palmer had taken orders in the Church of England, but afterwards became an Unitarian minister.

[2] "That portion of liberty you once enjoyed is fast setting, we fear, in the darkness of despotism and tyranny," was the strongest sentence.

a writing as any person is entitled to compose, to print, and to publish." When such opinions were declared from the bench, who can wonder if complaints were heard that the law punished as sedition the advocacy of parliamentary reform? Palmer was found guilty and sentenced to seven years' transportation, — not without intimations from Lord Abercromby and Lord Eskgrove that his crime so nearly amounted to treason, that he had narrowly escaped its punishment.[1]

Trial of William Skirving, Jan. 6th and 7th, 1794.

After these trials, the government resolved to put down the Convention of the friends of the people in Edinburgh, whose proceedings had become marked by greater extravagance.[2] Its leaders were arrested, and its papers seized. In January, 1794, William Skirving, the secretary, was tried for sedition, as being concerned in the publication of the address to the people, for which Palmer had already been convicted, and in other proceedings of the convention. He was found guilty and sentenced to fourteen years' transportation. On hearing his sentence, Skirving said: — "My Lords, I know that what has been done these two days will be rejudged; that is my comfort, and all my hope."[3] That his guilt was assumed and prejudged, neither prosecutor nor judge attempted to disguise. The solicitor-general, in his opening speech, said: — "The very name of British Convention carries sedition along with it." — "And the British Convention associated for what? For the purpose of obtaining universal suffrage: in other words, for the purpose of sub-

[1] St. Tr., xxiii. 237.

[2] It was now called the British Convention of Delegates, &c. Its members were citizens: its place of meeting was called Liberty Hall: it appointed secret committees, and spoke mysteriously of a convention of emergency.

[3] State Trials, xxiii. 391-602. Hume's Criminal Commentaries were compiled "in a great measure for the purpose of vindicating the proceedings of the Criminal Court in these cases of sedition;" but "there is scarcely one of his favorite points that the legislature, with the cordial assent of the public and of lawyers, has not put down. — *Lord Cockburn's Mem.*, 164; and see his art. in Edinb. Rev., No. 167, art. 7.

verting the government of Great Britain." And when Skirving, like Muir, objected to the jurors, as members of the Goldsmith's Hall Association, Lord Eskgrove said, "by making this objection, the panel is avowing that it was their purpose to overturn the government."

Margarot and Gerrald, Jan. and March, 1794.

Maurice Margarot[1] and Joseph Gerrald,[2] who had been sent by the London Corresponding Society to the Convention of the friends of the people at Edinburgh, were tried for seditious speeches and other proceedings, in connection with that convention; and on being found guilty, were sentenced to fourteen years' transportation.[3]

These trials noticed in Parliament. Jan. 31st, 1794. Feb. 24th, March 10th.

The circumstances attending these trials, and the extreme severity of the sentences, could not fail to raise animadversions in Parliament. The case of Mr. Muir was brought before the Lords by Earl Stanhope;[4] and that of Mr. Fyshe Palmer before the Commons, on a petition from himself, presented by Mr. Sheridan.[5]

The cases of Muir and Palmer were afterwards more fully brought before the House of Commons by Mr. Adam. He contended, in an able speech, that the offences with which they had been charged were no more than leasing-making, according to the law of Scotland,[6] for which no such punishment as transportation could be inflicted. He also called attention to many of the circumstances connected with these trials, in order to show their unfairness; and

[1] St. Tr., xxiii. 603.

[2] *Ibid.*, 805.

[3] Mr. Fox said of Gerrald, in 1797, "his elegant and useful attainments made him dear to the circles of literature and taste. Bred to enjoyments, in which his accomplishments fitted him to participate, and endowed with talents that rendered him valuable to his country, . . . the punishment to such a man was certain death, and accordingly he sank under the sentence, the victim of virtuous, wounded sensibility."—*Parl. Hist.*, xxxiii. 617.

[4] Parl. Hist., xxx. 1298.

[5] *Ibid.*, xxx. 1449.

[6] Scots Act of Queen Anne, 1703, c. 4.

moved for a copy of the record of Muir's trial. The trials and sentences were defended by the Lord Advocate, Mr. Windham, and Mr. Pitt; and strongly censured by Mr. Sheridan, Mr. Whitbread, Mr. Grey, and Mr. Fox. The latter denounced, with eloquent indignation, some of the extravagant expressions which had proceeded from the bench, and exclaimed, "God help the people who have such judges!" The motion was refused by a large majority.[1]

These cases were again incidentally brought into discussion, upon a motion of Mr. Adam respecting the criminal law of Scotland.[2] They were also discussed in the House of Lords, upon a motion of Lord Lauderdale, but without any results.[3] March 25th. April 15th.

The prisoners were without redress, but their sufferings excited a strong popular sympathy, especially in Scotland. "These trials," says Lord Cockburn, "sank deep, not merely into the popular mind, but into the minds of all men who thought. It was by these proceedings, more than by any other wrong, that the spirit of discontent justified itself throughout the rest of that age."[4] This strong sense of injustice rankled in the minds of a whole generation of Scotchmen, and after fifty years, found expression in the Martyrs' Memorial on Calton Hill.[5] Sympathy for the prisoners.

Meanwhile, some of the cases of sedition tried by the courts, in England, brought ridicule upon the administration of justice. Daniel Isaac Eaton was tried for publishing a contemptible pamphlet intituled "Politics for the people, or Hog's Wash," in which the king was supposed to be typified under the character Other cases of sedition in England. Daniel Isaac Eaton, Feb. 24th, 1794.

[1] Ayes, 32; Noes, 171; Parl. Hist., xxx. 1486.

[2] *Ibid.*, 54.

[3] *Ibid.*, xxxi. 263. For an account of the sufferings of Muir and Palmer on board the hulks, see St. Tr., xxiii. 377, *note*. Palmer, Gerrald, and Skirving died abroad; Muir escaped to Europe, and died in Paris, in 1799 – Ann. Reg., 1797, Chron., p. 14, and 1799, Chron., p. 9.

[4] Lord Cockburn's Mem., 102; Belsham's Hist., ix. 77–80.

[5] Erected 1844.

of a game-cock. It was a ridiculous prosecution, characteristic of the times: the culprit escaped, and the lawyers were laughed at.[1]

Thomas Walker, of Manchester, and others, April 1794.

Another prosecution, of more formidable pretensions, was brought to an issue in April, 1794. Thomas Walker, an eminent merchant of Manchester, and six other persons, were charged with a conspiracy to overthrow the constitution and government, and to aid the French in the invasion of these shores. This charge expressed all the fears with which the government were harassed, and its issue exposed their extravagance. The entire charge was founded upon the evidence of a disreputable witness, Thomas Dunn, whose falsehoods were so transparent that a verdict of acquittal was immediately taken, and the witness was committed for his perjury. The arms that were to have overturned the government and constitution of the country, proved to be mere children's toys, and some firearms which Mr. Walker had obtained to defend his own house against a church and king mob, by whom it had been assailed.[2] That such a case could have appeared to the officers of the crown worthy of a public trial, is evidence of the heated imagination of the time, which discovered conspiracies and treason in all the actions of men.

King's message respecting seditious practices, May 12th, 1794.

May 16th.

It was not until late in the session of 1794, that the ministers laid before Parliament any evidence of seditious practices. But in May, 1794, some of the leading members of the democratic societies having been arrested, and their papers seized, a message from the king was delivered to both Houses, stating that he had directed the books of certain corresponding societies to be laid before them.[3] In the Commons, these papers were referred to a secret committee, which first reported upon the proceedings of the Society for Constitutional information,

[1] St. Tr., xxiii. 1011.
[2] *Ibid.*, 1055.
[3] Parl. Hist., xxxi. 471.

and the London Corresponding Society; and pronounced its opinion that measures were being taken for assembling a general convention "to supersede the House of Commons in its representative capacity, and to assume to itself all the functions and powers of a national legislature."[1] It was also stated that measures had recently been taken for providing arms, to be distributed amongst the members of the societies. No sooner had the report been read, than Mr. Pitt, after recapitulating the evidence upon which it was founded, moved for a bill to suspend the habeas corpus act, which was rapidly passed through both Houses.[2]

A secret committee of the Lords reported that "a traitorous conspiracy had been formed for the subversion of the established laws and constitution, and the introduction of that system of anarchy and confusion which has fatally prevailed in France."[3] And the committee of the Commons, in a second report, revealed evidence of the secret manufacture of arms, in connection with the societies, of other designs dangerous to the public peace, and of proceedings ominously formed upon the French model.[4] A second report was also issued, on the following day, from the committee of the Lords.[5] They were followed by loyal addresses from both Houses, expressing their indignation at these seditious practices, and their determination to support the constitution and peace of the country.[6] The warmest friends of free discussion had no sympathy with sedition, or the dark plots of political fanatics; but, relying upon the loyalty and good conduct of the people, and the soundness of the constitution, they steadily contended that these dangers were exaggerated, and might be safely left to the ordinary administration of the law.

Lord's committee, May 17th, 19th, 21st.

Second Report of Secret Committee (Commons), June 6th.

Notwithstanding the dangers disclosed in these reports,

[1] Parl. Hist., xxxi. 495.
[2] See *infra*, p. 258.
[3] Parl. Hist., xxxi. 574.
[4] *Ibid.*, 688.
[5] *Ibid.*, 688.
[6] *Ibid.*, 909–931

prosecutions for seditious libel, both in England and Ireland, were singularly infelicitous. The convictions secured were few compared with the acquittals; and the evidence was so often drawn from spies and informers, that a storm of unpopularity was raised against the government. Classes, heartily on the side of order, began to be alarmed for the public liberties. They were willing that libellers should be punished: but protested against the privacy of domestic life being invaded by spies, who trafficked upon the excitement of the times.[1]

Trials for seditious libels, 1794.

Crimes more serious than seditious writings were now to be repressed. Traitorous societies, conspiring to subvert the laws and constitution, were to be assailed, and their leaders brought to justice. If they had been guilty of treason, all good subjects prayed that they might be convicted; but thoughtful men, accustomed to free discussion and association for political purposes, dreaded lest the rights and liberties of the people should be sacrificed to the public apprehensions.

State trials, 1794.

In 1794, Robert Watt and David Downie were tried, in Scotland, for high treason. They were accused of a conspiracy to call a convention, with a view to usurp legislative power, to procure arms, and resist the royal authority. That their designs were dangerous and criminal was sufficiently proved, and was afterwards confessed by Watt. A general convention was to be assembled, comprising representatives from England, Scotland, and Ireland, and supported by an armed insurrection. The troops were to be seduced or overpowered, the public offices and banks secured, and the king compelled to dismiss his ministers and dissolve Parliament. These alarming projects were discussed by seven obscure individuals in Edinburgh, of whom Watt, a spy, was the leader, and David Downie, a mechanic, the treasurer. Two of the seven soon withdrew from the conferences of the con-

Trials of Robert Watt and David Downie for high treason, Aug. and Sept. 1794.

[1] Adolphus' Hist., vi. 45, 46.

spirators; and four became witnesses for the crown. Forty-seven pikes had been made, but none had been distributed. Seditious writing and speaking, and a criminal conspiracy, were too evidently established; but it was only by straining the dangerous doctrines of constructive treason, that the prisoners could be convicted of that graver crime. They were tried separately, and both being found guilty, received sentence of death.[1] Watt was executed; but Downie, having been recommended to mercy by the jury, received a pardon.[2] It was the first conviction yet obtained for any of those traitorous designs, for the reality of which Parliament had been induced to vouch.

The pop-gun plot, Sept. 1794.

While awaiting more serious events, the public were excited by the discovery of a regicide plot. The conspirators were members of the much-dreaded Corresponding Society, and had concerted a plan for assassinating the king. Their murderous instrument was a tube, or air-gun, through which a poisoned arrow was to be shot! No wonder that this foul conspiracy at once received the name of the "Pop-Gun Plot!" A sense of the ridiculous prevailed over the fears and loyalty of the people.[3] But before the ridicule excited by the discovery of such a plot had subsided, trials of a far graver character were approaching, in which not only the lives of the accused, but the credit of the executive, the wisdom of Parliament, and the liberties of the people were at stake.

[1] St. Tr., xxiii. 1167; *Ibid.*, xxiv. 11. Not long before the commission of those acts which cost him his life, Watt had been giving information to Mr. Secretary Dundas of dangerous plots which never existed; and suspicions were entertained that if his criminal suggestions had been adopted by others, and a real plot put in movement, he would have been the first to expose it and to claim a reward for his disclosures. If such was his design, the "biter was bit," as he fell a sacrifice to the evidence of his confederates. — St. Tr., xxiii. 1325; Belsham's Hist., ix. 227.

[2] Speech of Mr. Curwen in defence of Downie, St. Tr., xxiv. 150; Speech of Mr. Erskine in defence of Hardy, *Ib.*, 964, &c.

[3] Crossfield, the chief conspirator, being abroad, the other traitors were not brought to trial for nearly two years, when Crossfield and his confederates were all acquitted. — St. Tr., xxvi. 1.

Parliament had declared in May[1] "that a traitorous and detestable conspiracy had been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion which has so lately prevailed in France." In October, a special commission was issued for the trial of the leaders of this conspiracy. The grand jury returned a true bill against Thomas Hardy, John Horne Tooke, John Thelwall, and nine other prisoners, for high treason. These persons were members of the London Corresponding Society, and of the Society for Constitutional information, which had formed the subject of the reports of secret committees, and had inspired the government with so much apprehension. It had been the avowed object of both these societies to obtain parliamentary reform; but the prisoners were charged with conspiring to break the public peace, — to excite rebellion, — to depose the king and put him to death, and alter the legislature and government of the country, — to summon a convention of the people for effecting these traitorous designs, — to write and issue letters and addresses, in order to assemble such a convention; and to provide arms for the purpose of resisting the king's authority.

State trials, 1794.

Oct. 6th, 1794.

Never, since the revolution, had prisoners been placed at so great a disadvantage, in defending themselves from charges of treason. They were accused of the very crimes which Parliament had declared to be rife throughout the country; and in addressing the grand jury, Chief Justice Eyre had referred to the recent act, as evidence of a wide-spread conspiracy to subvert the government.

The first prisoner brought to trial was a simple mechanic, Thomas Hardy, — a shoemaker by trade, and secretary of the London Corresponding Society. Day after day, evidence was produced by the crown, first to establish the existence and character of this conspiracy; and secondly to prove that the prisoner was con-

Trial of Hardy, Oct. 28th, 1794.

[1] Preamble to Habeas Corpus Suspension Act, 34 Geo. III. c. 54.

cerned in it. This evidence having already convinced Parliament of a dangerous conspiracy, the jury were naturally predisposed to accept it as conclusive; and a conspiracy being established, the prisoner, as a member of the societies concerned in it, could scarcely escape from the meshes of the general evidence. Instead of being tried for his own acts or language only, he was to be held responsible for all the proceedings of these societies. If they had plotted a revolution, he must be adjudged a traitor; and if he should be found guilty, what members of these societies would be safe?

The evidence produced in this trial proved, indeed, that there had been strong excitement, intemperate language, impracticable projects of reform, and extensive correspondence and popular organization. Many things had been said and done, by persons connected with these societies, which probably amounted to sedition; but nothing approaching either the dignity or the wickedness of treason. Their chief offence consisted in their efforts to assemble a general convention of the people, ostensibly for obtaining parliamentary reform, — but in reality, it was said, for subverting the government. If their avowed object was the true one, clearly no offence had been committed. Such combinations had already been formed, and were acknowledged to be lawful. Mr. Pitt himself, the Duke of Richmond, and some of the first men in the state had been concerned in them. If the prisoner had concealed and unlawful designs, it was for the prosecution to prove their existence by overt acts of treason. Many of the crown witnesses, themselves members of the societies, declared their innocence of all traitorous designs; while other witnesses gained little credit when exposed as spies and informers.

It was only by pushing the doctrines of constructive treason to the most dangerous extremes, that such a crime could even be inferred. Against these perilous doctrines Mr. Erskine had already successfully protested in the case of Lord George Gordon; and now again he exposed and refuted them, in a speech which, as Mr. Horne Tooke justly said, "will live

forever."[1] The shortcomings of the evidence, and the consummate skill and eloquence of the counsel for the defence, secured the acquittal of the prisoner.[2]

Trial of Horne Tooke.

Notwithstanding their discomfiture, the advisers of the crown resolved to proceed with the trial of Mr. John Horne Tooke, an accomplished scholar and wit, and no mean disputant. His defence was easier than that of Hardy. It had previously been doubtful how far the fairness and independence of a jury could be relied upon. Why should they be above the influences and prejudices which seemed to prevail everywhere? In his defence of Horne Tooke, Mr. Erskine could not resist adverting to his anxieties in the previous trial, when even the "protecting Commons had been the accusers of his client, and had acted as a solicitor to prepare the very briefs for the prosecution." But now that juries could be trusted, as in ordinary times, the case was clear; and Horne Tooke was acquitted.[3]

The groundless alarm of the government, founded upon the faithless reports of spies, was well exemplified in the case of Horne Tooke. He had received a letter from Mr. Joyce, containing the ominous words "Can you be ready by Thursday?" The question was believed to refer to some rising, or other alarming act of treason; but it turned out, that it related only to "a list of the titles, offices, and pensions bestowed by Mr. Pitt upon Mr. Pitt, his relations, friends, and dependents."[4] And again, Mr. Tooke, seeing Mr. Gay, an

[1] The conclusion of his speech was received with acclamations by th spectators who thronged the court, and by the multitudes surrounding it Fearful that their numbers and zeal should have the appearance of over awing the judges and jury, and interfering with the administration of justice, Mr. Erskine went out and addressed the crowd, beseeching them to disperse. "In a few minutes there was scarcely a person to be seen near the Court." — *Note to Erskine's Speeches*, iii. 502.

[2] State Tr., xxiv. 19; Erskine's Speeches, iii. 53; Lord Campbell's Lives of the Chancellors, vi. 471.

[3] St. Tr., xxv. 745.

[4] Mr. Erskine's Speech, St. Tr., xxv. 309.

enterprising traveller, present at a meeting of the Constitutional Society, had humorously observed that he "was disposed to go to greater lengths than any of us would choose to follow him;" an observation which was faithfully reported by a spy, as evidence of dangerous designs.[1]

Messrs. Bonney, Joyce, Kyd, and Holcroft were next arraigned, but the attorney-general, having twice failed in obtaining a conviction upon the evidence at his command, consented to their acquittal and discharge.[2] But Thelwall, against whom the prosecution had some additional evidence personal to himself, was tried, and acquitted. After this last failure, no further trials were ventured upon. The other prisoners, for whose trial the special commission had been issued, were discharged, as well as several prisoners in the country, who had been implicated in the proceedings of the obnoxious societies.

Other prisoners discharged, Dec. 1st, 1794. Trial of Thelwall

Most fortunate was the result of these trials. Had the prisoners been found guilty and suffered death, a sense of injustice would have aroused the people to dangerous exasperation. The right of free discussion and association would have been branded as treason: public liberty would have been crushed; and no man would have been safe from the vengeance of the government. But now it was acknowledged, that if the executive had been too easily alarmed, and Parliament too readily persuaded of the existence of danger, the administration of justice had not been tampered with; and that, even in the midst of panic, an English jury would see right done between the crown and the meanest of its subjects.[3]

Fortunate result of these trials.

[1] St. Tr., xxv. 310.

[2] *Ibid.*, 746.

[3] Mr. Speaker Addington, writing after these events, said, "It is of more consequence to maintain the credit of a mild and unprejudiced administration of justice than even to convict a Jacobin." — *Lord Sidmouth's Life*, i. 132. See also Belsham's Hist., ix. 244; Cartwright's Life, i. 210; Holcroft's Mem., ii. 180.

And while the people were made sensible of their freedom, ministers were checked for a time in their perilous career. Nor were these trials, however impolitic, without their uses. On the one hand, the alarmists were less credulous of dangers to the state: on the other, the folly, the rashness, the ignorance, and criminality of many of the persons connected with political associations were exposed.

Debates in Parliament on the trials, Dec. 30th, 1794.

On the meeting of Parliament, in December, the failure of these prosecutions at once became the subject of discussion. Even on the formal reading of the Clandestine Outlawries Bill, Mr. Sheridan urged the immediate repeal of the act for the suspension of the Habeas Corpus. While he and other members of the opposition contended that the trials had discredited the evidence of dangerous plots, ministers declined to accept any such conclusion. The solicitor-general maintained, that the "only effect of the late verdicts was, that the persons acquitted could not be again tried for the same offence;" and added, that if the juries had been as well informed as himself, they would have arrived at a different conclusion! These expressions, for which he was rebuked and ridiculed by Mr. Fox, were soon improved upon by Mr. Windham. The latter wished the opposition "joy of the innocence of an acquitted felon," — words which, on being called to order, he was obliged to explain away.[1]

Jan. 5th, 1795.

A few days afterwards, Mr. Sheridan moved for the repeal of the Habeas Corpus Suspension Act, in a speech abounding in wit, sarcasm, and personalities. The debate elicited a speech from Mr. Erskine, in which he proved, in the clearest manner, that the acquittal of the prisoners had been founded upon the entire disbelief of the jury in any traitorous conspiracy, — such as had been alleged to exist. His arguments were combated by Mr. Serjeant Adair, who, in endeavoring to prove that the House had been right, and the juries in error, was naturally rewarded

[1] Parl. Hist., xxxi. 994–1061.

with the applause of his audience. His speech called forth this happy retort of Mr. Fox. The learned gentleman, he said, "appealed from the jury to the House. And here let me adore the trial by jury. When this speech was made to another jury, — a speech which has been to-night received with such plaudits that we seemed ready *ire pedibus in sententiam*, — it was received with a cold 'not guilty.'" The minister maintained a haughty silence; but being appealed to, said that it would probably be necessary to continue the act. Mr. Sheridan's motion was supported by no more than forty-one votes.[1]

The debate was soon followed by the introduction of the Continuance Bill. The government, not having any further evidence of public danger, relied upon the facts already disclosed in Parliament and in the courts. Upon these they insisted, with as much confidence as if there had been no trials; while, on the other side, the late verdicts were taken as a conclusive refutation of all proofs hitherto offered by the executive. These arguments were pressed too far, on either side. Proofs of treason had failed: proofs of seditious activity abounded. To condemn men to death on such evidence was one thing: to provide securities for the public peace was another: but it was clear that the public danger had been magnified, and its character misapprehended. The bill was speedily passed by both Houses.[2]

Suspension of Habeas Corpus Act continued, 1795.

While many prisoners charged with sedition had been released after the state trials, Henry Redhead Yorke was excepted from this indulgence. He was just twenty-two years old, — of considerable talent; and had entered into politics, when a mere boy, with more zeal than discretion. In April, 1794, he had assembled a meeting at Castle Hill, Sheffield, whom he addressed, in strong and inflammatory language,

Trial of Henry Redhead Yorke for conspiracy, July 23d, 1795.

[1] Ayes, 41; Noes, 185; Parl. Hist., xxxi. 1062.

[2] *Ibid.*, 1144-1194; 1280-1293.

upon the corruptions of the House of Commons, and the necessity of parliamentary reform. The proceedings at this meeting were subsequently printed and published; but it was not proved that Mr. Yorke was concerned in the publication, nor that it contained an accurate report of his speech. Not long afterwards, he was arrested on a charge of high treason. After a long imprisonment, this charge was abandoned; but in July 1795, he was at length brought to trial at the York Assizes, on a charge of conspiracy to defame the House of Commons, and excite a spirit of disaffection and sedition amongst the people. He spoke ably in his own defence; and Mr. Justice Rooke, before whom he was tried, admitted in his charge to the jury that the language of the prisoner, — presuming it to be correctly reported, — would have been innocent at another time and under other circumstances; but that addressed to a large meeting, at a period of excitement, it was dangerous to the public peace. The jury being of the same opinion, found a verdict of guilty; and the defendant was sentenced to a fine of 200*l.*, and two years' imprisonment in Dorchester jail.[1]

Distress and riots, 1795.

The year 1795 was one of suffering, excitement, uneasiness, and disturbance: "the time was out of joint." The pressure of the war upon industry, aggravated by two bad harvests, was already beginning to be felt. Want of employment and scarcity of food, as usual, provoked political discontent; and the events of the last three years had made a wide breach between the government and the people.[2] Until then, the growth of freedom had been rapid: many constitutional abuses had already been corrected; and the people, trained to free thought and discussion, had been encouraged by the first men of the age, — by Chatham, Fox, Grey, and the younger Pitt himself, — to hope for a wider representation as the consummation of their

[1] St. Tr., xxv. 1003.

[2] Ann. Reg., 1796, p. 7; History of the Two Acts, Introduction.

liberties. But how had the government lately responded to these popular influences? By prosecutions of the press, — by the punishment of political discussion as a crime, — by the proscription of parliamentary reformers, as men guilty of sedition and treason, — and by startling restraints upon public liberty. Deeply disturbed and discontented was the public mind. Bread riots, and excited meetings in favor of parliamentary reform, disclosed the mixed feelings of the populace. These discontents were inflamed by the mischievous activity of the London Corresponding Society,[1] emboldened by its triumphs over the government, and by demagogues begotten by the agitation of the times. On the 26th of October, a vast meeting was assembled by the London Corresponding Society at Copenhagen House, at which 150,000 persons were said to have been present. An address to the nation was agreed to, in which, among other stirring appeals, it was said, "We have lives, and are ready to devote them, either separately or collectively, for the salvation of the country." This was followed by a remonstrance to the king, urging parliamentary reform, the removal of ministers, and a speedy peace. Several resolutions were also passed describing the sufferings of the people, the load of taxation, and the necessity of universal suffrage and annual parliaments. The latter topic had been the constant theme of all their proceedings; and however strong their language, no other object had ever been avowed. The meeting dispersed without the least disorder.[2]

Popular excitement was at its height, when the king was about to open Parliament in person. On the 29th of October, the Park and streets were thronged with an excited multitude, through which the royal procession was to pass, on its way to Westminster. Instead

Attack upon the king, Oct. 29th, 1795.

[1] See their addresses to the nation and the king, June 29th, 1795, in support of universal suffrage and annual parliaments. — *Hist. of the Two Acts* 90–97.

[2] Hist. of the Two Acts, 98–108.

of the cordial acclamations with which the king had generally been received, he was now assailed with groans and hisses, and cries of "Give us bread," — "No Pitt," — "No war," — "No famine." His state carriage was pelted, and one missile, apparently from an air-gun, passed through the window. In all his dominions, there was no man of higher courage than the king himself. He bore these attacks upon his person with unflinching firmness; and proceeded to deliver his speech from the throne, without a trace of agitation. On his return to St. James's, these outrages were renewed, the glass panels and windows of the carriage were broken to pieces;[1] and after the king had alighted, the carriage itself was nearly demolished by the mob. The king, in passing from St. James's to Buckingham House in his private carriage, was again beset by the tumultuous crowd; and was only rescued from further molestation by the timely arrival of some horse-guards, who had just been dismissed from duty.[2]

These disgraceful outrages, reprobated by good men of all classes, were made the occasion of further encroachments upon the political privileges of the people. Both Houses immediately concurred in an address to his Majesty, expressing their abhorrence of the late events.

Proclamations and addresses.

Oct. 31st, 1795. This was succeeded by two proclamations, — one offering rewards for the apprehension of the authors and abettors of these outrages; and the other adverting to recent meetings near the metropolis, followed by the attack upon the king; and calling upon the magistrates and all good subjects to aid in preventing such meetings, and in apprehending persons who should deliver inflammatory speeches or distribute seditious papers. Both these proclamations were laid before Parliament, and Lord Grenville introduced into the House of Lords a bill founded upon them, for the "preser-

Nov. 4th.

Treasonable Practices Bill, Nov. 4th.

Nov. 6th.

[1] "When a stone was thrown at one of his glasses in returning home, the king said, 'That is a stone, — you see the difference from a bullet.'" — *Lord Colchester's Diary*, i. 3.

[2] Ann. Reg., 176, p. 9; History of the Two Acts, 1796, 4–21; Lord Colchester's Diary, i. 2.

vation of his Majesty's person and government against treasonable practices and attempts."

This bill introduced a new law of treason, at variance with the principles of the existing law, the operation of which had gravely dissatisfied the government in the recent state trials. The proof of overt acts of treason was now to be dispensed with; and any person compassing and devising the death, bodily harm, or restraint of the king, or his deposition, or the levying of war upon him, in order to compel him to change his measures or counsels, or who should express such designs by any printing, writing, preaching, or malicious and advised speaking, should suffer the penalties of high treason.[1] Any person who by writing, printing, preaching, or speaking should incite the people to hatred or contempt of his Majesty, or the established government and constitution of the realm, would be liable to the penalties of a high misdemeanor; and on a second conviction, to banishment or transportation. The act was to remain in force during the life of the king, and till the end of the next session after his decease.

It was at once perceived that the measure was an alarming encroaching upon freedom of opinion. Its opponents saw in it a statutory prohibition to discuss parliamentary reform. The most flagrant abuses of the government and constitution were henceforth to be sacred from exposure. To speak of them at all would excite hatred and contempt; and silence was therefore to be imposed by law. Nor were the arguments by which this measure was supported such as to qualify its obnoxious provisions. So grave a statesman as Lord Grenville claimed credit for it as being copied from acts passed in the reigns of Queen Elizabeth and Charles II., —"approved times," as his Lordship ventured to affirm.[2] Dr. Horsley, Bishop of Rochester, "did not know what the mass of the people in any country had to do with the laws

[1] The provision concerning preaching and advised speaking was afterwards omitted.

[2] Parl. Hist., xxxii. 245; Lord Colchester's Diary, i. 5.

but to obey them." This constitutional maxim he repeated on another day, and was so impressed with its excellence that he exclaimed, "My Lords, it is a maxim which I ever will maintain; — I will maintain it to the death, I will maintain it under the axe of the guillotine."[1] And notwithstanding the obloquy which this sentiment occasioned, it was, in truth, the principle and essence of the bill which he was supporting.

Nov. 13th, 1795. Within a week the bill was passed through all its stages, there being only seven dissentient Peers; and sent to the House of Commons.[2]

Seditious Meetings Bill, Nov. 10th. But before it reached that House, the Commons had been occupied by the discussion of another measure equally alarming. On the 10th November, the king's proclamations were considered, when Mr. Pitt founded upon them a bill to prevent seditious meetings. Following the same reasoning as these proclamations, he attributed the outrages upon his Majesty, on the opening of Parliament, to seditious meetings, by which the disaffection of the people had been inflamed. He proposed that no meeting of more than fifty persons (except county and borough meetings duly called) should be held, for considering petitions or addresses for alteration of matters in church or state, or for discussing any grievance, without previous notice to a magistrate, who should attend to prevent any proposition or discourse tending to bring into hatred or contempt the sovereign, or the government and constitution. The magistrate would be empowered to apprehend any person making such proposition or discourse. To resist him would be felony, punishable with death. If he deemed the proceed-

[1] Parl. Hist., xxxii. 268. His explanations in no degree modified the extreme danger of this outrageous doctrine. He admitted that where there were laws bearing upon the particular interests of certain persons or bodies of men, such persons might meet and discuss them. In no other cases had the people anything to do with the laws, i. e., they had no right to an opinion upon any question of public policy! See *supra*, Vol. I. 411.

[2] *Ibid.*, xxxii. 244–272; Lord Colchester's Diary, i. 5, 6.

ings tumultuous he might disperse the meeting; and was indemnified if any one was killed in its dispersion. To restrain debating societies and political lectures, he proposed to introduce provisions for the licensing and supervision of lecture-rooms by magistrates.

When this measure had been propounded, Mr. Fox's indignation burst forth. That the outrage upon the king had been caused by public meetings, he denounced as a flimsy pretext; and denied that there was any ground for such a measure. "Say at once," he exclaimed, "that a free constitution is no longer suited to us; say at once, in a manly manner, that on a review of the state of the world, a free constitution is not fit for you; conduct yourselves at once as the senators of Denmark did, — lay down your freedom, and acknowledge and accept of despotism. But do not mock the understandings and the feelings of mankind, by telling the world that you are free."

He showed that the bill revived the very principles of the Licensing Acts. They had sought to restrain the printing of opinions of which the government disapproved: this proposed to check the free utterance of opinions upon public affairs. Instead of leaving discussion free, and reserving the powers of the law for the punishment of offences, it was again proposed, after an interval of a hundred years, to license the thoughts of men, and to let none go forth without the official *dicatur*. With the views of a statesman in advance of his age, he argued, "We have seen and heard of revolutions in other states. Were they owing to the freedom of popular opinions? Were they owing to the facility of popular meetings? No, sir, they were owing to the reverse of these; and therefore, I say, if we wish to avoid the danger of such revolutions, we should put ourselves in a state as different from them as possible." Forty-two members only could be found to resist the introduction of this bill.[1]

[1] Ayes, 244; Noes, 42; Parl. Hist., xxxii. 272-300; Lord Colchester's Diary, i. 6.

Each succeeding stage of the bill occasioned renewed discussions upon its principles.[1] But when its details were about to be considered in committee, Mr. Fox, Mr. Erskine, Mr. Grey, Mr. Lambton, Mr. Whitbread, and the other opponents of the measure, rose from their seats and withdrew from the House.[2] Mr. Sheridan alone remained, not, as he said, to propose any amendments to the bill,—for none but the omission of every clause would make it acceptable,—but merely to watch its progress through the committee.[3] The seceders returned on the third reading, and renewed their opposition to the bill; but it was passed by a vast majority.[4]

Nov. 27th, 1795.

Dec. 3d.

Meanwhile, the Treasonable Practices Bill, having been brought from the Lords, had also encountered a resolute opposition. The irritation of debate provoked expressions on both sides tending to increase the public excitement. Mr. Fox said that it "ministers were determined, by means of the corrupt influence they possessed in the two Houses of Parliament, to pass the bills, in direct opposition to the declared sense of a great majority of the nation; and should they be put in force with all their rigorous provisions, if his opinion were asked by the people, as to their obedience, he should tell them that it was no longer a question of moral obligation and duty, but of prudence. He expressed this strong opinion advisedly, and repeated and justified it again and again, with the encouragement of Mr. Sheridan, Mr. Grey, Mr. Whitbread, and other earnest opponents of the bills.[5] On the other side, this menace was met by a statement of Mr.

Treasonable Practices Bill in the Commons, Nov. 16th.

1 Parl. Hist., xxxii. 300–364, 387–422.

2 *Ibid.*, Lord Colchester's Diary, i. 11.

3 Parl. Hist., xxxii. 422.

4 Ayes, 266; Noes, 51. *Ibid.*, 422–470.

5 Parl. Hist., xxxii. 383, 385, 386, 392, 451–460; Lord Colchester's Diary, i. 9. Nov. 24th: "Grey to-night explained his position of resistance to be theoretical, which in the preceding night he had stated to be practically applicable to the present occasion." — *Ibid.*, i. 10. And see Lord Malmesbury's Diary, iii. 247.

Windham, "that ministers were determined to exert a rigor beyond the law, as exercised in ordinary times and under ordinary circumstances."[1]

After repeated discussions in both Houses, the bills were eventually passed.[2] During their progress, however, large classes of the people, whose liberties were threatened, had loudly remonstrated against them. The higher classes generally supported the government, in these and all other repressive measures. In their terror of democracy, they had unconsciously ceased to respect the time-honored doctrines of constitutional liberty. They saw only the dangers of popular license; and scarcely heeded the privileges which their ancestors had prized. But on the other side were ranged many eminent men, who still fearlessly asserted the rights of the people, and were supported by numerous popular demonstrations.

The bills passed. Opposition out of doors.

On the 10th November, the Whig Club held an extraordinary meeting, which was attended by the first noblemen and gentlemen of that party. It was there agreed, that before the right of discussion and meeting had been abrogated, the utmost exertions should be used to oppose these dangerous measures. Resolutions were accordingly passed, expressing abhorrence of the attack upon the king, and deploring that it should have been made the pretext for bills striking at the liberty of the press, the freedom of public discussion, and the right to petition Parliament for redress of grievances; and advising that meetings should be immediately held and petitions presented against measures which infringed the rights of the people.[3] The London Corresponding Society published an address to the nation, indignantly denying that the excesses of an aggrieved and uninformed populace could be charged upon them, or the late meeting at Copenhagen House, — professing the strictest legality in pursuit of parliamentary reform, and denouncing the minister as

The Whig Club.

[1] Parl. Hist., xxxii. 386. [2] 36 Geo. III. c. 7, 8.
[3] Hist. of the Two Acts, 120.

seeking pretences "to make fresh invasion upon our liberties, and establish despotism on the ruins of popular association." [1]

Meeting at Copenhagen House, Nov. 13th.

The same society assembled a prodigious meeting at Copenhagen House, which agreed to an address, petition, and remonstrance to the king, and petitions to both Houses of Parliament, denouncing these "tremendous bills, which threatened to overthrow the constitutional throne of the house of Brunswick, and to establish the despotism of the exiled Stuarts." [2] A few days afterwards, a great meeting was held in Palace Yard, with Mr. Fox in the chair, which voted an address to the king and a petition to the House of Commons against the bills.[3] Mr. Fox there denounced the bills "as a daring attempt upon your liberties, — an attempt to subvert the constitution of England. The Bill of Rights is proposed to be finally repealed, that you shall be deprived of the right of petitioning." And the people were urged by the Duke of Bedford to petition while that right remained to them.

Meeting in Palace Yard.

Other meetings.

Numerous meetings were also held in London, Edinburgh, Glasgow, York, and in various parts of the country, to petition against the bills. And other meetings were held at the Crown and Anchor, andelse where, in support of ministers, which declared their belief that the seditious excesses of the people demanded these stringent measures, as a protection to society.[4]

Mr. Reeves's pamphlet.

The debates upon the Treason and Sedition Bills had been enlivened by an episode, in which the opposition found the means of retaliating upon the government and its supporters. A pamphlet, of ultra-monarchical

[1] Hist. of the Two Acts, 39. [2] *Ibid.*, 125–134.

[3] *Ibid.*, 232–236–239; Adolph. Hist., vi. 370; Lord Colchester's Diary, i. 7. This meeting had been convened to assemble in Westminster Hall; but as the Courts were sitting, it adjourned to Palace Yard.

[4] Hist. of the Two Acts, 135, 165, 244, 306-361, 389–392, 466, *et seq.* Belsham's Hist x. 10–23.

principles, was published, entitled "Thoughts on the English Government." One passage represented the king as the ancient stock of the constitution, — and the Lords and Commons as merely branches, which might be "lopped off" without any fatal injury to the constitution itself. It was a speculative essay which, at any other time, would merely have excited a smile; but it was discovered to be the work of Mr. Reeves, chairman of the "Society for protecting liberty and property from Republicans and Levellers," — better known as the "Crown and Anchor Association."[1] The work was published in a cheap form, and extensively circulated amongst the numerous societies of which Mr. Reeves was the moving spirit; and its sentiments were in accordance with those which had been urged by the more indiscreet supporters of repressive measures. Hence the opposition were provoked to take notice of it. Having often condemned the government for repressing speculative opinions, it would have been more consistent with their principles to answer than to punish the pamphleteer; but the opportunity was too tempting to be lost. The author was obnoxious, and had committed himself: ministers could scarcely venture to defend his doctrines; and thus a diversion favorable to the minority was at last feasible. Mr. Sheridan, desirous, he said, of setting a good example, did not wish the author to be prosecuted: but proposed that he should be reprimanded at the bar, and his book burned in New Palace Yard by the common hangman. Ministers, however, preferred a prosecution, to another case of privilege. The attorney-general was therefore directed to prosecute Mr. Reeves; and, on his trial, the jury, while they condemned his doctrines, acquitted the author.[2]

[1] Mr. Reeves was the author of the learned "History of the Law of England," well known to posterity, by whom his pamphlet would have been forgotten but for these proceedings.

[2] Parl. Hist., xxxii. 608, 627, 651, 662. In the Lords, notice was also taken of the pamphlet, but no proceedings taken against it; *Ibid.*, 631 St. Tr., xxvi. 529; Lord Colchester's Diary, i. 8.

Mr. Fox's motion to repeal Treason and Sedition Acts, May 14th, 1797.

In 1797, Mr. Fox moved for the repeal of the Treason and Sedition Acts, in a speech abounding in political wisdom. The truth of many of his sentiments has since received remarkable confirmation. "In proportion as opinions are open," he said, "they are innocent and harmless. Opinions become dangerous to a state only when persecution makes it necessary for the people to communicate their ideas under the bond of secrecy." And, again, with reference to the restraint imposed upon public meetings: "What a mockery," he exclaimed, "to tell the people that they shall have a right to applaud, a right to rejoice, a right to meet when they are happy; but not a right to condemn, not a right to deplore their misfortunes, not a right to suggest a remedy!" And it was finely said by him, "Liberty is order: liberty is strength," — words which would serve as a motto for the British constitution. His motion, however, found no more than fifty-two supporters.[1]

Regulation of newspapers, 1789-1798.

During this period of excitement, the regulation of newspapers often occupied the attention of the legislature. The stamp and advertisement duties were increased: more stringent provisions made against unstamped publications; and securities taken for insuring the responsibility of printers.[2] By all these laws it was sought to restrain the multiplication of cheap political papers among the poorer classes; and to subject the press, generally, to a more effectual control. But more serious matters were still engaging the attention of government.

Corresponding societies, 1795-1799.

The London Corresponding Society and other similar societies continued their baneful activity. Their rancor against the government knew no bounds. Mr. Pitt and his colleagues were denounced as tyrants and enemies of the human race. Hitherto their pro-

[1] Parl. Hist., xxxiii. 613.

[2] 29 Geo. III. c. 50; 34 Geo. III. c. 72; 37 Geo. III. c. 90; 38 Geo. III. c. 78; Parl. Hist., xxxiii. 1415, 1482.

ceedings had been generally open: they had courted publicity, paraded their numbers, and prided themselves upon their appeals to the people. But the acts of 1795 having restrained their popular meetings, and put a check upon their speeches and printed addresses, they resorted to a new organization, in evasion of the law. Secrecy was now the scheme of their association. Secret societies, committees, and officers were multiplied throughout the country, by whom an active correspondence was maintained: the members were bound together by oaths: inflammatory papers were clandestinely printed and circulated: seditious handbills secretly posted on the walls. Association degenerated into conspiracy. Their designs were congenial to the darkness in which they were planned. A general convention was projected; and societies of United Englishmen and United Scotsmen established an intercourse with the United Irishmen. Correspondence with France continued; but it no longer related to the rights of men and national fraternity. It was undertaken in concert with the United Irishmen, who were encouraging a French invasion.[1] In this basest of all treasons some of the English societies were concerned. They were further compromised by seditious attempts to foment discontents in the army and navy, and by the recent mutiny in the fleet.[2] But whatever their plots or crimes, their secrecy alone made them dangerous. They were tracked to their hiding-places by the agents of the government; and in 1799, when the rebellion had broken out in Ireland, papers disclosing these proceedings were laid before the House of Commons. A secret committee related, in great detail, the history of these societies; and Mr. Pitt brought in a bill to repress them.

It was not sought to punish the authors of past excesses; but to prevent future mischiefs. The societies of United Englishmen, Scotsmen, and Irishmen, and the London Corresponding Society, were

Corresponding Societies Bill, April 19th, 1799.

1 *Infra*, p. 498.

2 An Act had been passed in 1797 to punish this particular crime, 37 Geo. III. c. 70.

suppressed by name; and all other societies were declared unlawful of which the members were required to take any oath not required by law, or which had any members or committees not known to the society at large, and not entered in their books, or which were composed of distinct divisions or branches. The measure did not stop here. Debating clubs and reading-rooms not licensed were to be treated as disorderly houses. All printing-presses and type-founderies were to be registered. Printers were to print their names on every book or paper, and register the names of their employers. Restraints were even imposed upon the lending of books and newspapers for hire. This rigorous measure encountered little resistance. Repression had been fully accepted as the policy of the state; and the Opposition had retired from a hopeless contest with power. Nor for societies conducted on such principles, and with such objects, could there be any defence. The provisions concerning the press introduced new rigors in the execution of the law, which at another time would have been resisted: but a portion of the press had, by outrages on decency and order, disconcerted the stanchest friends of free discussion.[1]

Repressive measures completed, 1799.

The series of repressive measures was now complete. We cannot review them without sadness. Liberty had suffered from the license and excesses of one party, and the fears and arbitrary temper of the other. The government and large classes of the people had been brought into painful conflict. The severities of rulers, and the sullen exasperation of the people, had shaken that mutual confidence which is the first attribute of a free state. The popular constitution of England was suspended. Yet was it a period of trial and transition, in which public liberty, repressed for a time, suffered no permanent injury. Subdued in one age, it was to arise with new vigor in another.

[1] Reports of Committees on Sealed Papers, 1799; Parl. Hist., xxxiv. 579, 1000; Debates, *Ibid.*, 984, &c.; 39 Geo. III. c. 79.

Political agitation, in its accustomed forms of public meetings and association, was now checked for several years,[1] — and freedom of discussion in the press continued to be restrained by merciless persecution. But the activity of the press was not abated. It was often at issue with the government; and the records of our courts present too many examples of the license of the one, and the rigors of the other. Who can read without pain the trials of Mr. Gilbert Wakefield and his publishers, in 1799? On one side we see an eminent scholar dissuading the people, in an inflammatory pamphlet, from repelling an invasion of our shores: on the other, we find publishers held criminally responsible for the publication of a libel, though ignorant of its contents; and the misguided author punished with two years' imprisonment in Dorchester jail,[2] — a punishment which proved little short of a sentence of death.[3] Who can peruse without indignation the trial of the conductors of the "Courier," in the same year, for a libel upon the Emperor of Russia,[4] in which the pusillanimous doctrine was laid down from the Bench, that public writers were to

Administration of the libel laws. 1799-1811.

The Rev. Gilbert Wakefield.

[1] In Scotland, "as a body to be deferred to, no public existed." — *Cockburn's Mem.*, 88. See also *Ibid.*, 282, 302, 376.

[2] St. Tr., xxvii. 679; Erskine's Speeches, v. 213; Lord Campbell's Chancellors, vi. 517.

[3] £5000 was subscribed for him, but he died a fortnight after his release. Mr. Fox, writing March 1st, 1799, to Mr. Gilbert Wakefield, says: — "The liberty of the press I consider as virtually destroyed by the proceedings against Johnson and Jordan; and what has happened to you I cannot but lament, therefore, the more, as the sufferings of a man whom I esteem, in a cause that is no more." — *Fox Mem.*, iv. 337. — And again on June 9th: — "Nothing could exceed the concern I felt at the extreme severity (for such it appears to me) of the sentence pronounced against you." — *Ib.*, 339.

[4] This libel was as follows: — "The Emperor of Russia is rendering himself obnoxious to his subjects by various acts of tyranny, and ridiculous in the eyes of Europe by his inconsistency. He has now passed an edict prohibiting the exportation of timber, deals, &c. In consequence of this ill-timed law, upwards of one hundred sail of vessels are likely to return to this kingdom without freight."

be punished, not for their guilt, but from fear of the displeasure of foreign powers.[1]

The First Consul and the English press, 1802.

From such a case, it is refreshing to turn to worthier principles of freedom, and independence of foreign dictation. However often liberty may have been invaded, it has ever formed the basis of our laws. When the First Consul, during the peace of Amiens, demanded that liberty of the press in England should be placed under restraints not recognized by the constitution, he was thus answered by the British government: — "His Majesty neither can nor will, in consequence of any representation or menace from a foreign power, make any concession which may be in the smallest degree dangerous to the liberty of the press, as secured by the constitution of this country. This liberty is justly dear to every British subject; the constitution admits of no previous restraints upon publications of any description; but there exist judicatures wholly independent of the executive, capable of taking cognizance of such publications as the law deems to be criminal; and which are bound to inflict the punishment the delinquents may deserve. These judicatures may investigate and punish not only libels against the government and magistracy of this kingdom, but, as has been repeatedly experienced, of publications defamatory of those in whose hands the administration of foreign governments is placed. Our government neither has nor wants any other protection than what the laws of the country afford; and though they are willing and ready to give to every foreign government all the protection against offences of this nature, which the principle of their laws and constitution will admit, they never can consent to new-model their laws, or to change

[1] Lord Kenyon said: — "When these papers went to Russia and held up this great sovereign as being a tyrant and ridiculous over Europe, it might tend to his calling for satisfaction as for a national affront, if it passed unreprobated by our government and in our courts of justice." Trial of Vint, Ross, and Perry: St. Tr., xxvii. 627; Starkie's Law of Libel, ii. 217.

their constitution, to gratify the wishes of any foreign power."[1]

But without any departure from the law of England, the libeller of a foreign power could be arraigned;[2] and this correspondence was followed by the memorable trial of Jean Peltier.[3] Mr. Maekintosh, in his eloquent and masterly defence of the defendant,[4] dreaded this prosecution "as the first of a long series of conflicts between the greatest power in the world and the only free press remaining in Europe;" and maintained by admirable arguments and illustrations, the impolicy of restraining the free discussion of questions of foreign policy and the character and conduct of foreign princes, as affecting the interest of this country. The genius of his advocate did not save Peltier from a verdict of guilty; but as hostilities with France were soon renewed, he was not called up for judgment.[5] Meanwhile the First Consul had continued to express his irritation at the English newspapers, between which and the newspapers of France a warm controversy was raging; and finding that they could not be repressed by law, he desired that the government should at least restrain those newspapers which were supposed to be under its influence. But here again he was met by explanations concerning the independence of English editors, which he found it difficult to comprehend;[6] and no sooner was war declared, than all the newspapers joined in a chorus of vituperation against

Trial of Jean Peltier, Feb. 21st, 1803.

[1] Lord Hawkesbury to Mr. Merry, Aug. 28th, 1802; Parl. Hist., xxxvi. 1273.

[2] R. *v.* D'Eon, 1764; Starkie's Law of Libel, ii. 216; R. *v.* Lord George Gordon, 1787; State Tr., xxii. 175; Vint, Ross, and Perry, 1790, *supra*, p. 175.

[3] Letter from M. Otto to Lord Hawkesbury, July 25th, 1802; Parl. Hist., xxxvi. 1267.

[4] The Attorney-General (Spencer Perceval) spoke of it as "one of the most splendid displays of eloquence he ever had occasion to hear;" and Lord Ellenborough termed it "eloquence almost unparalleled."

[5] St. Tr., xxviii. 529.

[6] Lord Whitworth to Lord Hawkesbury, Jan. 27th, and Feb. 21st, 1803.

Napoleon Bonaparte, without any fears of the attorney-general.

William Cobbett's trials, 1804.

In following the history of the press, we now approach names familiar in our own time. William Cobbett, having outraged the republican feelings of America by his loyalty, now provoked the loyal sentiments of England by his radicalism. His strong good sense, his vigorous English style, and the bold independence of his opinions, soon obtained for his "Political Register" a wide popularity. But the unmeasured terms in which he assailed the conduct and measures of the government exposed him to frequent prosecutions. In 1804, he suffered for the publication of two letters from an Irish judge, ridiculing Lord Hardwicke, Lord Redesdale, and the Irish executive.[1] Ridicule being held to be no less an offence than graver obloquy, Cobbett was fined; and Mr. Justice Johnson, the author of the libels, retired from the bench with a pension.[2]

His libel on the German legion, 1809.

In 1809, another libel brought upon Mr. Cobbett a severer punishment. Some soldiers in a regiment of militia having been flogged, under a guard of the German legion, Cobbett seized the occasion for inveighing at once against foreign mercenaries and military flogging. He was indicted for a libel upon the German legion; and being found guilty, was sentenced to two years' imprisonment, a fine of 1000*l.*, and to give security for 3000*l.* to keep the peace for seven years. The printer of the Register, and two persons who had sold it, were also punished for the publication of this libel. The extreme severity of Cobbett's sentence excited a general sympathy in his favor, and indignation at the administration of the libel laws.[3]

[1] There was far more of ridicule than invective. Lord Hardwicke was termed "a very eminent sheepfeeder from Cambridgeshire" with "a wooden head;" and Lord Redesdale "a very able and strong-built Chancery pleader from Lincoln's Inn."

[2] St. Tr., xxix. 1, 54, 422, 437; Hans. Deb., 1st Ser., v. 119.

[3] Sydney Smith, in a letter to Lady Holland, Feb. 11th, 1810, said: —

Another similar case illustrates the grave perils of the law of libel. In 1811, Messrs. John and Leigh Hunt were prosecuted for the republication of a spirited article against military flogging from the "Stamford News." They were defended by the vigor and eloquence of Mr. Brougham, and were acquitted.[1]

Messrs. John and Leigh Hunt, Feb. 24th, 1811.

Yet a few days afterwards, John Drakard, the printer of the "Stamford News," though defended by the same able advocate, was convicted at Lincoln for the publication of this very article.[2] Lord Ellenborough had laid it down that "it is competent for all the subjects of his Majesty, freely but temperately to discuss, through the medium of the press, every question connected with public policy." But on the trial of Drakard, Baron Wood expressed opinions fatal to the liberty of the press. "It is said that we have a right to discuss the acts of our legislature. This would be a large permission indeed. Is there, gentlemen, to be a power in the people to counteract the acts of the Parliament; and is the libeller to come and make the people dissatisfied with the government under which he lives? This is not to be permitted to any man, — it is unconstitutional and seditious."[3] Such doctrines were already repugnant to the law; but a conviction obtained by their assertion from the bench, proves by how frail a thread the liberty of the press was then upheld.

The "Stamford News," March 13th, 1811.

The last three years before the regency were marked by unusual activity, as well as rigor, in the administration of the libel laws. Informations were multiplied; and the attorney-general was armed with a new power of holding the accused to bail.[4]

Last three years before the regency.

"Who would have mutinied for Cobbett's libel? or who would have risen up against the German soldiers? and how easily might he have been answered! He deserved some punishment; but to shut a man up in jail for two years for such an offence is most atrocious." —*Sydney Smith's Mem.*, ii. 86.

[1] St. Tr., xxxi. 367. [2] *Ibid.*, 495. [3] *Ibid.*, 535.

[4] From 1808 to 1811, forty-two informations were filed, of which twenty-six were brought to trial. Lords' Deb. on Lord Holland's motion, March 4th, 1811; Hans. Deb., 1st Ser., xix. 140; Commons' Deb. on Lord Folke-

Progress of the press.

It is now time again to review the progress of the press, during this long period of trial and repression. Every excess and indiscretion had been severely visited: controversial license had often been confounded with malignant libel: but the severities of the law had not subdued the influence of the press. Its freedom was often invaded but its conductors were ever ready to vindicate their rights with a noble courage and persistence. Its character was constantly improving. The rapidity with which intelligence of all the incidents of the war was collected, in anticipation of official sources, increased the public appetite for news: its powerful criticisms upon military operations and foreign and domestic policy, raised its reputation for judgment and capacity. Higher intellects, attracted to its service, were able to guide and instruct public opinion. Sunday newspapers were beginning to occupy a place in the periodical press, — destined to future eminence, — and attempts to repress them, on the grounds of religion and morality, had failed.[1] But in the press, as in society, there were many grades; and a considerable class of newspapers were still wanting in the sobriety and honesty of purpose necessary to maintain the permanent influence of political literature. They were intemperate, and too often slanderous.[2] A lower class

stone's motion, March 28th, 1811; *Ibid.*, 548; Ann. Reg., 1811, p. 142; Romilly's Life, ii. 380; Horner's Life, ii. 139.

[1] In 1799 Lord Belgrave, in concert with Mr. Wilberforce, brought in a bill for that purpose, which was lost on the second reading. Its loss was attributed by its promoters to the fact that three out of the four Sunday newspapers supported the government. Parl. Hist., xxxiv. 1006; Life of Wilberforce, ii. 424.

[2] In his defence of John and Leigh Hunt, in 1811, Mr. Brougham gave a highly-colored sketch of the licentiousness of the press: — "There is not only no personage so important or exalted, — for of that I do not complain, — but no person so humble, harmless, and retired, as to escape the defamation which is daily and hourly poured forth by the venal crew, to gratify the idle curiosity, or still less excusable malignity; to mark out, for the indulgence of that propensity, individuals retiring into the privacy of domestic life; to hunt them down and drag them forth as a laughing-stock to the vulgar, has become, in our days, with some men, the road even to popularity; but with multitudes the means of earning a base subsistence." — *St. Tr.*, xxxi. 880.

of papers, clandestinely circulated in evasion of the stamp laws, went far to justify reproaches upon the religion and decency of the press. The ruling classes had long been at war with the press; and its vices kept alive their jealousies and prejudice. They looked upon it as a noxious weed, to be rooted out, rather than a plant of rare excellence, to be trained to a higher cultivation. Holding public writers in low esteem, — as instruments of party rancor, — they failed to recognize their transcendent services to truth and knowledge.[1]

But all parties, whether regarding the press with jealousy or favor, were ready to acknowledge its extraordinary influence in affairs of state. "Give me," said Mr. Sheridan, "but the liberty of the press, and I will give the minister a venal House of Peers,—I will give him a corrupt and servile House of Commons, — I will give him the full swing of the patronage of office, — I will give him the whole host of ministerial influence, — I will give him all the power that place can confer upon him to purchase submission, and overawe resistance; and yet, armed with the liberty of the press, I will go forth to meet him undismayed: I will attack the mighty fabric he has reared, with that mightier engine: I will shake down from its height corruption, and lay it beneath the ruins of the abuses it was meant to shelter."[2]

[1] In 1808, the benchers of Lincoln's Inn passed a by-law, excluding all persons who had written for hire, in the daily papers, from being called to the bar. The other Inns of Court refused to accede to such a proposition. On the 23d March 1809, Mr. Sheridan presented a petition complaining of this by-law, which was generally condemned in debate, and it was soon afterwards rescinded by the benchers. — *Lord Colchester's Diary*, ii. 240. In 1810, Mr. Windham spoke of the reporters as having amongst them "bankrupts, lottery-office keepers, footmen, and decayed tradesmen." And he understood the conductors of the press to be "a set of men who would give in to the corrupt misrepresentation of opposite sides." — *Hans. Deb.* 1st Ser., xv. 330.

[2] Feb. 6th, 1810. — *Ibid.*, 341.

CHAPTER X.

Repressive Policy of the Regency: — Measures of 1817: — The Manchester Meeting, 1819: — The Six Acts: — Advancing Power of Public Opinion: — The Catholic Association: — Freedom of the Press assured: — Political Unions, and the Reform Agitation: — Repeal Agitation: — Orange Lodges: — Trades' Unions: — The Chartists: — The Anti-Corn-Law League: — General Review of Political Agitation.

THE regency was a period memorable for the discontents and turbulence of the people, and for the severity with which they were repressed. The working classes were suffering from the grievous burdens of the protracted war, from the high prices of food, from restraints upon trade, and diminished employment. Want engendered discontent; and ignorant and suffering men were misled into disorder, tumult, and violence. In June 1812, Lord Sidmouth was appointed secretary of state. Never was statesman more amiable and humane: but falling upon evil times, and committed to the policy of his generation, his rule was stern and absolute.

Lord Sidmouth secretary of state, 1812.

The mischievous and criminal outrages of the "Luddites," and the measures of repression adopted by the government, must be viewed wholly apart from the history of freedom of opinion. Bands of famished operatives in the manufacturing districts, believing their distresses to be due to the encroachment of machinery upon their labor, associated for its destruction. Bound together by secret oaths, their designs were carried out with intimidation, outrage, incendiarism, and murder.[1] Life and property were

The Luddites, 1811-1814.

[1] A full account of these lawless excesses will be found in the State Trials, xxxi. 959; Ann. Reg., 1812, 54-66, &c. The Reports of the Secret

alike insecure; and it was the plain duty of the government to protect them, and punish the wrongdoers. Attempts, indeed, were made to confound the ignorance and turbulence of a particular class, suffering under a specific grievance, with a general spirit of sedition. It was not enough that the frame-breakers were without work, and starving: that they were blind to the causes of their distress; and that the objects of their fury were near at hand; but they were also accused of disaffection to the state.[1] In truth, however, their combinations were devoid of any political aims; and the measures taken to repress them were free from just imputations of interference with the constitutional rights of the subject. They were limited to the particular evil, and provided merely for the discovery of concealed arms in the disturbed districts, the dispersion of tumultuous assemblies, and the enlargement of the jurisdiction of magistrates, so as to prevent the escape of offenders.[2]

Riots, 1815, 1816

In 1815, the unpopular Corn Bill, — expressly designed to raise the price of food, — was not passed without riots in the metropolis.[3] In the following year there were bread-riots and tumultuous assemblages of workmen at Nottingham, Manchester, Birmingham, and Merthyr Tydvil. London itself was the scene of serious disturbances.[4] All these were repressed by the executive government, with the ordinary means placed at its disposal.

Outrage on prince regent, Jan. 28th, 1817.

But in 1817, the excesses of mischievous and misguided men led, as on former occasions, to restraints upon the public liberties. On the opening of Parliament some bullets, stones, or other missiles, struck the state-carriage of the prince regent, on

Committees, 14th July, 1812, are extremely meagre; Hans. Deb., 1st Ser., xxiii. 951, 1029.

1 2 Hans. Deb., 1st Ser., xxiii. 962, 999, &c.; Lord Sidmouth's Life, iii. 79–96.

2 52 Geo. III. c. 162.

3 Ann. Reg. 1815, 140; Lord Sidmouth's Life, iii. 125.

4 *Ibid.*, 143–162; Bamford's Passages in the Life of a Radical, i. 7, &c., Ann. Reg. 1816, 95.

his return from the House of Lords.[1] This outrage was followed by a message from the prince regent, communicating to both Houses papers containing evidence of seditious practices. These were referred to secret committees, which reported that dangerous associations had been formed in different parts of the country, and other seditious practices carried on which the existing laws were inadequate to prevent. Attempts had been made to seduce soldiers; arms and banners had been provided, secret oaths taken, insurrection plotted, seditious and blasphemous publications circulated. The jails were to be broken open, and the prisoners set free: the Bank of England and the Tower were to be stormed: the government subverted: property plundered and divided. Hampden clubs were plotting revolution: Spenceans were preparing to hunt down the owners of the soil, and the "rapacious fundholders."[2]

Repressive measures proposed.

The natural consequence of these alarming disclosures was a revival of the repressive policy of the latter years of the last century, to which this period affords a singular parallel. The act of 1795, for the protection of the king from treasonable attempts, was now extended to the prince regent; and another act renewed, to restrain the seduction of soldiers and sailors from their allegiance. To such measures none could object: but there were others, dictated by the same policy and considerations as those, which, on former occasions, had imposed restraints upon public liberty. Again, the criminal excesses of a small class were accepted as evidence of wide-spread disaffection In suffering and social discontent were detected the seeds of revolution; and to remedies for partial evils were added jealous restrictions upon popular rights. It was proposed to extend the acts of 1795 and 1799, against corresponding

[1] Evidence of Lord James Murray; Hans. Deb., 1st Ser., xxxv. 34; Ann Reg. 1817, p. 3.

[2] Reports of Secret Committees, Lords and Commons; Hans. Deb., 1st Ser., xxxv. 411, 438.

societies, to other political clubs and associations, whether affiliated or not: to suppress the Spencean clubs, to regulate meetings of more than fifty persons, to license debating societies; and lastly, to suspend the Habeas Corpus Act.[1] These measures, especially the latter, were not passed without remonstrance and opposition. It was maintained that the dangers were exaggerated, that the existing laws were sufficient to repress sedition, and that no encroachment should be suffered on the general liberties of the people for the sake of reaching a few miscreants whom all good citizens abhorred. While the inadequacy of the means of the conspirators to carry out their fearful designs was ridiculed, it was urged that the executive were already able to cope with sedition, to put down secret and other unlawful societies, and to restrain the circulation of blasphemous and seditious libels. But so great was the power of the government, and so general the repugnance of society to the mischievous agitation which it was proposed to repress, that these measures were rapidly passed. through both Houses, without any formidable opposition.[2]

The restraints upon public liberty expired in the following year; but other provisions, designed to insure Parliament against intimidation and insult, were allowed a permanent place in our constitutional law. Public meetings were prohibited within a mile of Westminster Hall, during the sitting of Parliament or the courts; and to arrest the evil of conventions assuming to dictate to the legislature, restraints were imposed on the appointment and coöperation of delegates from different societies.[3]

The state prosecutions for treason were as infelicitous as

[1] Speeches of Lord Sidmouth in the House of Lords, and Lord Castlereagh in the House of Commons; Hans. Deb., 1st Ser., xxxv. 551, 590; Lord Sidmouth's Life, iii. 172; Acts 57 Geo. III. c. 3, 6, 7, 19.

[2] For the third reading of Habeas Corpus Suspension Bill there were 265 votes against 103 — the minority including nearly all the opposition. — *Hans. Deb.*, 1st Ser., xxxv. 822; Edinburgh Review, Aug. 1817, p. 524–543.

[3] 57 Geo. III. c. 19, §§ 23, 25.

those of 1794, which had been undertaken under similar circumstances. James Watson, Arthur Thistlewood, James Watson the younger, Thomas Preston, and John Hooper, were indicted for high treason, arising out of a riotous meeting in Spa Fields, which they had called together, and other riotous and seditious proceedings, for which none will deny that they deserved condign punishment. They were entitled to no sympathy as patriots or reformers; and the wickedness of their acts was only to be equalled by their folly. But the government, — not warned by the experience of 1794,—indicted them, not for sedition and riot, of which they were unquestionably guilty, but for treason; and so allowed them to escape with impunity.[1]

Trials of Watson and others, 1817.

In the month of June disturbances, approaching the character of insurrection, broke out in Derbyshire; and the ringleaders were tried and convicted. Brandreth, commonly known as the Nottingham Captain, Turner and Ludlam were executed: Weightman and twenty-one others received His Majesty's pardon, on condition of transportation or imprisonment; and against twelve others no evidence was offered by the attorney-general.[2]

Derbyshire insurrection, 1817.

When the repressive measures of this session had been passed, the government commenced a more rigorous execution of the laws against the press. Lord Sidmouth addressed a circular letter to the lords-lieutenants of counties, acquainting them that the law officers of the crown were of opinion, that a justice of the peace may issue a warrant to apprehend any person charged on oath with the publication of a blasphemous or seditious libel, and compel him to give bail to answer the charge; and desiring them to communicate this opinion to the magistrates at the ensuing quarter sessions, and to recommend them to

Lord Sidmouth's circular, March 27th, 1817.

[1] St. Tr., xxxii. 1, 674; Lord Sidmouth's Life, iii. 158.

[2] St. Tr., xxxii. 755-1394; Lord Sidmouth's Life, iii. 179-183; Reports on the state of the country; Hans. Deb., 1st Ser., xxvii. 568, 679.

act upon it. He further informed them that the venders of pamphlets or tracts should be considered as within the provisions of the Hawkers' and Pedlars' Act, and should be dealt with accordingly, if selling such wares without a license. Doubts were immediately raised concerning the lawfulness and policy of this circular; and the question was brought by Earl Grey before the Lords,[1] and by Sir Samuel Romilly before the Commons.[2] Their arguments were briefly these. The law itself, as declared in this circular, was ably contested, by reference to authorities and principles. It could not be shown that justices had this power by common law: it had not been conferred by statute; nor had it been recognized by any express decision of the courts. But, at all events, it was confessedly doubtful, or the opinion of the law officers would not have been required. In 1808, it had been doubted if judges of the Court of King's Bench could commit or hold to bail persons charged with the publication of libels, before indictment or information; and this power was then conferred by statute.[3] But now the right of magistrates to commit, like the judges, was determined, neither by Parliament, nor by any judicial authority, but by the crown, through its own executive officers. The secretary of state had interfered with the discretion of justices of the peace. What if he had ventured to deal, in such a manner, with the judges? . The justices had been instructed, not upon a matter of administration or police, but upon their judicial duties. The constitution had maintained a separation of the executive and judicial authorities; but here they had been confounded. The crown, in declaring the law, had usurped the province of the legislature; and in instructing the magistrates, had encroached upon an independent judicature. And, apart

Its lawfulness questioned, May 12th and June 25th, 1817.

[1] May 12th, 1817 (Lords); Hans. Deb., 1st Ser., xxxvi. 445. See also Lord Sidmouth's Life, iii. 176.

[2] *Ibid.*, June 25th (Commons), 1153.

[3] 48 Geo. III. c 58

from these constitutional considerations, it was urged that the exercise of such powers by justices of the peace was exposed to grave abuses. Men might be accused before a magistrate, not only of publishing libels, but of uttering seditious words: they might be accused by spies and informers of incautious language, spoken in the confidence of private society; and yet, upon such testimony, they might be committed to prison by a single magistrate, — possibly a man of violent prejudices and strong political prepossessions. On the part of ministers it was replied that magistrates, embarrassed in the discharge of their duties, having applied to the secretary of state for information, he had consulted the law officers, and communicated their opinion. He had no desire to interfere with their discretion, but had merely promulgated a law. The law had been correctly expounded, and if disputed, it could be tried before a court of law on a writ of *habeas corpus*. But, in the meantime, unless the hawkers of seditious tracts could be arrested, while engaged in their pernicious traffic, they were able to set the police at defiance. Whatever the results of these discussions, they at least served as a warning to the executive, ever to keep in view the broad principle of English freedom, which distinguishes independent magistrates from prefects of police.

Threatening, indeed, were now the terrors of the law. While every justice of the peace could issue his warrant against a supposed libeller, and hold him to bail; the secretary of state, armed with the extraordinary powers of the Habeas Corpus Suspension Act, could imprison him upon bare suspicion, and detain him in safe custody without bringing him to trial. The attorney-general continued to wield his terrible *ex-officio* informations, — holding the accused to bail, or keeping them in prison in default of it, until their trial.[1] Defendants were punished, if convicted, with fine and imprisonment, — and, even if acquitted, with ruinous costs. Nor did the judges

The press, 1817. Powers exercised against the press.

[1] 48 Geo. III. c. 58.

spare any exertion to obtain convictions. Ever jealous and distrustful of the press, they had left as little discretion to juries as they were able; and using freely the power reserved to them by the Libel Act of 1792, of stating their own opinion, they were eloquent in summing up the sins of libellers.[1]

William Cobbett, who had already suffered from the severities of the attorney-general, was not disposed to brave the secretary of state, but suspended his "Political Register," and sailed to America. "I do not retire," said he, "from a combat with the attorney-general; but from a combat with a dungeon, deprived of pen, ink, and paper. A combat with the attorney-general is quite unequal enough. That, however, I would have encountered. I know too well what a trial by special jury is. yet that, or any sort of trial, I would have stayed to face. But against the absolute power of imprisonment, without even a hearing, for time unlimited, in any jail in the kingdom, without the use of pen, ink, and paper, and without communication with any soul but the keepers, — against such a power it would have been worse than madness to attempt to strive."[2] Cobbett's withdrawal from England.

Ministers had silenced and put to flight their most formidable foe; but against this success must be set their utter discomfiture by an obscure bookseller, who would never have been known to fame, had he not been drawn out from his dingy shop into a court of justice. William Hone had published some political squibs, in the form of parodies upon the liturgy of the church; and for this pitiful trash was thrice put upon his trial, for blasphemous and seditious libels. Too poor to seek professional aid, he defended himself in person. But he was a man of genius in his way; and with singular ingenuity and persistence, and much quaint learning, he proved himself more than a match for the attorney-general and the bench. Trials of Hone, 1817.

[1] Lord Campbell's Lives of the Chancellors, vi. 517.

[2] Political Register, 28th March, 1817.

In vain did Lord Ellenborough, uniting the authority of the judge with the arts of a counsel, strive for a conviction. Addressing the jury, — "under the authority of the Libel Act, and still more in obedience to his conscience and his God, he pronounced this to be a most impious and profane libel." But the jury were proof alike against his authority and his persuasion. The humble bookseller fairly overcame the awful chief justice; and, after intellectual triumphs which would have made the reputation of a more eminent man was thrice acquitted.[1]

These proceedings savored so strongly of persecution, that they excited a wide sympathy for Hone, amongst men who would have turned with disgust from his writings; and his trial, in connection with other failures, insured at least a temporary mitigation of severity in the administration of the libel laws.[2]

Trials in Scotland. M'Laren and Baird, March 5th, 1817.

At this time some trials in Scotland, if they remind us of 1793, afford a gratifying contrast to the administration of justice at that period. Alexander M'Laren, a weaver, and Thomas Baird, a grocer,[3] were tried for sedition before the High Court of Justiciary at Edinburgh. The weaver had made an intemperate speech at Kilmarnoch, in favor of parliamentary reform, which the grocer had been concerned in printing. It was shown that petitions had been received by Parliament, expressed in language at least as strong; but the accused, though defended by the admirable arguments and eloquence of Francis Jeffrey, were found guilty of sedition.[4]

[1] Mr. Justice Abbott presided at the first trial; Lord Ellenborough at the second and third. Lord Ellenborough felt his defeat so sensibly, that on the following day he sent to Lord Sidmouth the draft of a letter of resignation. Lord Sidmouth's Life, iii. 236; Hone's Printed Trials; Mr. Charles Knight's Narrative in Martineau's Hist., i. 144.

[2] Lord Dudley's Letters, 199.

[3] So stated in evidence, St. Tr., xxxiii. 22, though called in the indictment "a merchant."

[4] St. Tr., xxxiii. 1.

Neil Douglas, "Universalist Preacher," had sought to enliven his prayers and sermons with political lucubrations; and spies, being sent to observe him, reported that the fervid preacher, with rapid utterance and in a strong Highland dialect, had drawn a seditious parallel between our afflicted king and Nebuchadnezzar, King of Babylon; and between the prince regent and King Belshazzar. The crown witnesses, unused to the eccentricities of the preacher, had evidently failed to comprehend him; while others, more familiar with Neil Douglas, his dialect, opinions, and preaching, proved him to be as innocent of sedition, as he probably was of religious edification. He was ably defended by Mr. Jeffrey, and acquitted by the jury.[1] Neil Douglas, 1817.

But the year 1819 was the culminating point of the protracted contest between the state and liberty of opinion. Distress still weighed heavily upon the working classes. They assembled at Carlisle, at Leeds, at Glasgow, at Ashton-under-Line, at Stockport, and in London, to discuss their wants, and to devise remedies for their destitution. Demagogues were prompt in giving a political direction to their deliberations; and universal suffrage and annual Parliaments were soon accepted as the sovereign remedy for the social ills of which they complained. It was affirmed that the constitutional right to return members belonged to all communities. Unrepresented towns were invited to exercise that right, in anticipation of its more formal acknowledgment; and accordingly, at a large meeting at Birmingham, Sir Charles Wolseley was elected "legislatorial attorney and representative" of that populous place.[2] Public meetings in 1819.

Other circumstances contributed to invest these large assemblages with a character of peculiar insecurity. A great social change had been rapidly developed. The extraordinary growth of manu- State of the manufacturing population.

[1] St. Tr., xxxiii. 634.

[2] Ann. Reg., 1819, p. 104. Sir Charles was afterwards arrested, while attending a meeting at Smithfield, for seditious words spoken by him at Stockport.

factures had suddenly brought together vast populations, severed from those ties which usually connect the members of a healthy society. They were strangers, deprived of the associations of home and kindred, without affection or traditional respect for their employers, and baffling, by their numbers, the ministrations of the church and the softening influence of charity. Distressed and discontented, they were readily exposed to the influence of the most mischievous portion of the press, and to the lowest demagogues; while so great were their numbers, and so densely massed together, that their assemblages assumed proportions previously unknown; and became alarming to the inhabitants and magistracy, and dangerous to the public peace.

Proclamation, July 30th, 1819.

These crowded meetings, though addressed in language of excitement and extravagance, had hitherto been held without disturbance. The government had watched them, and taken precautions to repress disorder: but had not attempted any interference with their proceedings. On the 30th of July, however, a proclamation was issued against seditious meetings; and large assemblages of men were viewed with increased alarm by the government and magistracy.

Meeting at Manchester dispersed, Aug. 16th, 1819.

Following the example of Birmingham,[1] the reformers of Manchester appointed a meeting for the 9th of August, for the election of a "legislatorial attorney": but the magistrates, having issued a notice declaring an assemblage for such a purpose illegal, another meeting was advertised for the 16th, to petition for Parliamentary Reform. Great preparations were made for this occasion; and in various parts of Lancashire large bodies of operatives were drilled, in the night-time, and practised in military training. It was the avowed object of this drilling to enable the men to march in an orderly manner to the

[1] At the Leeds meeting it had been resolved that a similar election should take place, when a suitable candidate had been found; but no representative had been chosen. — *Ann. Reg.*, 1819, p. 105.

meeting: but the magistrates were, not unnaturally, alarmed at demonstrations so threatening.

On the 16th, St. Peter's Field in Manchester became the scene of a deplorable catastrophe. Forty thousand men [1] and two clubs of female reformers, marched in to the meeting, bearing flags, on which were inscribed the objects of their political faith, — "Universal Suffrage," "Equal Representation or Death," and "No Corn Laws." However menacing their numbers, their conduct was orderly and peaceful. Mr. Hunt, having taken the chair, had just commenced his address, when he was interrupted by the advance of cavalry upon the people. The Manchester Yeomanry, having been sent by the magistrates to aid the chief constable in arresting Mr. Hunt, and other reform leaders, on the platform, executed their instructions so awkwardly as to find themselves surrounded and hemmed in by the dense crowd, and utterly powerless. The 15th Hussars, now summoned to their rescue, charged the people sword in hand; and in ten minutes the meeting was dispersed, the leaders were arrested, and the terrified crowd driven like sheep through the streets. Many were cut down by sabres, or trampled upon by the horses: but more were crushed and wounded in their frantic struggles to escape from the military. Between 300 and 400 persons were injured: but happily no more than five or six lives were lost.

This grievous event brought to a sudden crisis the antagonism between the government and the popular right of meeting to discuss grievances. The magistrates complimented the military upon their forbearance; and the government immediately thanked both the magistrates and the military, for their zeal and discretion in maintaining the public peace. But it was indignantly asked, — not by demagogues and men ignorant of the law, but by statesmen and

State of public feeling.

[1] It was variously estimated at from 20,000 to 60,000. Lord Liverpool said 20,000; Lord Castlereagh, 40,000. In the indictment against Hunt and others it was laid at 60,000.

lawyers of eminence, — by whom the public tranquillity had been disturbed? Other meetings had been held without molestation: why then was this meeting singled out for the inopportune vigor of the magistrates? If it threatened danger, why was it not prevented by a timely exercise of authority? If Hunt and his associates had violated the law, why were they not arrested before or after the meeting? Or if arrested on the hustings, why not by the civil power? The people were peaceable and orderly; they had threatened no one; they had offered no resistance. Then why had they been charged and routed by the cavalry? It was even doubted if the Riot Act had been duly read. It had certainly not been heard; and the crowd, without notice or warning, found themselves under the flashing swords of the soldiery.[1]

Meetings and petitions for inquiry.

Throughout the country, "the Manchester Massacre," as it was termed, aroused feelings of anger and indignation. Influential meetings were held in many of the chief counties and cities, denouncing the conduct of the magistrates and the government, and demanding inquiry. In the manufacturing districts, the working classes assembled, in large numbers, to express their sympathy with the sufferers, and their bitter spirit of resentment against the authorities. Dangerous discontents were inflamed into sedition. Yet all these excited meetings were held peaceably,

1 The evidence on this point was very confused. Earl Grey, after reading all the documents, affirmed that the Riot Act had not been read. Lord Liverpool said it had been completely read once, and partly read a second time. Lord Castlereagh said the Riot Act had been read from the window of the house in which the magistrates were assembled. This not being deemed sufficient, another magistrate went out into the crowd to read it, nd was trampled under foot. Another vainly endeavored to read it at the .ustings after the arrest of Mr Hunt.

Hans. Deb., 1st Ser., xli. 4, 51, &c.; Lord Sidmouth's Life, iii. 249, *et seq.*; Ann. Reg., 1819, p. 106; Trial of Mr. Hunt and others, 1820; Ann. Reg., 1820; Chron., 41; Barn. and Ald. Rep., iii. 566; Papers laid before Parliament, Nov. 1819; Hans. Deb., 1st Ser., xli. 230 (Mr. Hay's statement); Bamford's Passages from the Life of a Radical, i. 176–213; Prentice's Manchester. 160.

except one at Paisley, where the magistrates having caused the colors to be seized, riots and outrages ensued.[1] But ministers were hard and defiant. The Common Council of the city of London addressed the prince regent, praying for an inquiry, and were sternly rebuked in his reply. Earl Fitzwilliam, a nobleman of the highest character, who had zealously assisted the government in the repression of disorders in his own county, joined the Duke of Norfolk and several other noblemen and gentlemen of the first importance, in a requisition to the high sheriff of the county of York, to call a meeting for the same purpose. At this meeting he attended and spoke; and was dismissed from his lord-lieutenancy.[2] Hitherto the Whigs had discountenanced the radical reformers; but now the rigors of the government forced them to make common cause with that party, in opposing the measures of the executive.[3]

In the midst of this perilous excitement, Parliament was assembled, in November; and the Manchester meeting was naturally the first object of discussion. Amendments were moved to the Address, in the Lords by Earl Grey, and in the Commons by Mr. Tierney, reprobating all dangerous schemes, but urging the duty of giving just attention to the complaints of the people, and the propriety of inquiring into the events at Manchester.[4] It was the object of the Opposition to respond to the numerous meetings, petitions, and addresses, which had prayed for inquiry; and to evince a spirit of sympathy and conciliation on the part of Parliament, which had been sig-

Meeting of Parliament, Nov. 23d, 1819.

[1] Ann. Reg., 1819, p. 109.

[2] Lord Sidmouth's Life, iii. 263-272; Ann. Reg., 1819, p. 113, and Lord Grey's observations; Hans. Deb., 1st Ser., xli. 11-15. The resolutions of this meeting, without condemning the magistrates, merely demanded inquiry.

[3] Lord Liverpool, writing to Lord Sidmouth, Sept. 30th, 1819, said: — "As far as the Manchester business goes, it will identify even the respectable part of the opposition with Hunt and the radical reformers." — *Lord Sidmouth's Life*, iii. 270.

[4] Hans. Deb., 1st Ser., xli. 4. 51; Lord Sidmouth's Life, iii. 297, *et seq.*

nally wanting in the government. Earl Grey said, "there was no attempt at conciliation, no concession to the people; nothing was attended to but a resort to coercion, as the only remedy which could be adopted."—"The natural consequences of such a system, when once begun, was that it could not be stopped: discontents begot the necessity of force: the employment of force increased discontents: these would demand the exercise of new powers, till by degrees they would depart from all the principles of the constitution." It was urged, in the language of Burke, that "a House of Commons who, in all disputes between the people and administration, presume against the people, — who punish their disorders, but refuse even to inquire into the provocations to them, — this is an unnatural, a monstrous state of things, in such a constitution."

Inquiry refused.

But conciliation formed no part of the hard policy of ministers. Sedition was to be trampled out. The executive had endeavored to maintain the peace of the country; but its hands must now be strengthened. In both Houses the amendments were defeated by large majorities;[1] and a similar fate awaited distinct motions for inquiry, proposed, a few days afterwards, by Lord Lansdowne in the Lords, and Lord Althorp in the Commons.[2]

The Six Acts.

Papers were laid before Parliament containing evidence of the state of the country, which were immediately followed by the introduction of further measures of repression, — then designated, and since familiarly known, as the "Six Acts." The first deprived defendants in cases of misdemeanor of the right of traversing: to which Lord Holland induced the chancellor to add a clause, obliging the attorney-general to bring defendants to trial within twelve months. By a second it was proposed to enable the court

[1] In the Lords there were 159 for the Address, and 34 for the amendment. In the Commons, 381 for the Address, and 150 for the amendment — *Hans. Deb.*, 1st Ser., xli., 50, 228.

[2] Nov. 30th. Contents, 47; Non-contents, 178. Ayes, 150; Noes, 323 — *Ibid.*, 418, 517.

on the conviction of a publisher of a seditious libel, to order the seizure of all copies of the libel in his possession, and to punish him, on a second conviction, with fine, imprisonment, banishment, or transportation. By a third, the newspaper stamp-duty was imposed upon pamphlets and other papers containing news, or observations on public affairs; and recognizances were required from the publishers of newspapers and pamphlets for the payment of any penalty. By a fourth, no meeting of more than fifty persons was permitted to be held without six days' notice being given by seven householders to a resident justice of the peace; and all but freeholders or inhabitants of the county, parish, or township, were prohibited from attending, under penalty of fine and imprisonment. The justice could change the proposed time and place of meeting; but no meeting was permitted to adjourn itself. Every meeting tending to incite the people to hatred and contempt of the king's person, or the government and constitution of the realm, was declared an unlawful assembly; and extraordinary powers were given to justices for the dispersion of such meetings, and the capture of persons addressing them. If any persons should be killed or injured in the dispersion of an unlawful meeting, the justice was indemnified. Attending a meeting with arms, or with flags, banners, or other ensigns or emblems, was an offence punishable with two years' imprisonment. Lecture and debating rooms were to be licensed, and open to inspection. By a fifth, the training of persons in the use of arms was prohibited; and by a sixth, the magistrates, in the disturbed counties, were empowered to search for and seize arms.

All these measures, except that for prohibiting military training, were strenuously opposed in both Houses. They were justified by the government on the ground of the dangers which threatened society. It was argued by Lord Castlereagh, "that unless we could reconcile the exercise of our liberties with the preservation of the public peace, our liberties would inevitably perish."

The bills opposed in Parliament.

It was said that blasphemous and seditious libels were undermining the very foundations of society, while public meetings, under pretence of discussing grievances, were assembled for purposes of intimidation, and the display of physical force. Even the example of the French Revolution was not yet considered out of date, but was still relied on in justification of these measures.[1] On the other side, it was contended that the libel laws were already sufficiently severe, and always liable to be administered capriciously. Writings, which at one time would be adjudged innocent and laudable, at another would be punished as subversive of the laws and constitution. Zealous juries would be too ready to confound invectives against ministers with incitements to hatred and contempt of established institutions. The punishments proposed were excessive. Transportation had hitherto been confined to felonious offences; and banishment was unknown to the laws of England. Such punishments would either deter juries from finding persons guilty of libel: or, if inflicted, would be out of all proportion to the offence. The extent of the mischief was also denied. It was an unjust reproach to the religion of the country to suppose that blasphemy would be generally tolerated, and to its loyalty, that sedition would be encouraged.

To the Seditious Meetings Bill it was objected that the constitutional right of assembling to discuss grievances was to be limited to the narrow bounds of a parish, and exercised at the pleasure of a magistrate, — probably a stanch supporter of ministers, jealous of popular rights, and full of prejudice against radicals and mob orators.[2]

These discussions were not without advantage. The monstrous punishment of transportation was withdrawn from the Seditious Libels Bill; and modifications were admitted into the bill for restraining seditious meetings: but

[1] See especially Speech of Lord Grenville, Nov. 30th, 1819, on Lord Lansdowne's motion for inquiry. — *Hans. Deb.*, 1st Ser., xli. 448.

[2] Hans. Deb., 1st Ser., xli. 343, 378, 594, &c.

these severe measures were eventually passed with little change.[1]

In presence of a novel development of popular meetings in crowded districts, ministers sought to prevent the assemblage of vast numbers from different parts, and to localize political discussion. Nor can it be denied that the unsettled condition and ignorance of the manufacturing population justified apprehensions and precaution. The policy, however, which dictated these measures was not limited to the correction of a special danger; but was marked, as before, by settled distrust of the press and popular privileges. Ten years before it had been finely said by Mr. Brougham, "Let the public discuss! So much the better. Even uproar is wholesome in England, while a whisper is fatal in France."[2] But this truth had not yet been accepted by the rulers of that period.[3] They had not yet learned to rely upon the loyalty and good sense of the people, and upon the support of the middle classes, in upholding order and repressing outrage. On the other hand, we cannot but recognize in the language of the Opposition leaders a bold confidence in their countrymen, and a prescient statesmanship, — destined in a few years to be accepted as the policy of the state.

Distrust of the people.

Disaffection, however, still prevailed; and the evil passions

[1] 60 Geo. III. c. 1; Geo. IV. c. 1, 2, 4, 6, 8, 9. All these were permanent, except the Seditious Meetings Act, which, introduced as a permanent measure, was afterwards limited to five years, and the Seizure of Arms Act, which expired on the 25th March, 1822.

[2] In defence of the Stamford News.

[3] Stringent as were the measures of the government, they fell short of the views of the old Tory party. Mr. Bankes wrote to Lord Colchester, Dec. 31st, 1819: — "My only doubt is whether we have gone far enough in our endeavor to restrain and correct the licentiousness and abuse of the press." — *Lord Colchester's Diary*, iii. 104.

Lord Redesdale, another type of the same school, wrote: — "I doubt whether it would not have been fortunate for the country, if half Manchester had been burned, and Glasgow had endured a little singing." — To Lord Colchester, Jan. 4th, 1820. — *Ibid.*, iii. 107.

of this distempered period soon afterwards exploded in the atrocious conspiracy of Thistlewood and his miscreant gang. To the honor of Englishmen, few were guilty of plotting this bloody and insensate crime, the discovery of which filled all classes of men with horror and disgust.[1]

Cato Street conspiracy, Feb., 1820.

While the country was still excited by this startling event, Hunt and his associates were convicted, with five others, of unlawfully meeting together, with divers other persons unknown, for the purpose of creating discontent and disaffection, and of exciting the king's subjects to hatred of the government and constitution. Hunt was sentenced to two years and six months' imprisonment, and the others to one year's imprisonment. Sir Charles Wolseley and Harrison, a dissenting preacher, were also tried and sentenced to eighteen months' imprisonment for their participation in the Stockport meeting.[2]

Trials of Hunt and Sir C. Wolseley, 1820.

Let us now examine the general results of the long contest which had been maintained between the ill-regulated, mischievous, and often criminal struggles of the people for freedom, on the one hand, and the harsh policy of repression maintained by the government, on the other. The last twenty-eight years of the reign of George III. formed a period of perilous transition for liberty of opinion. While the right of free discussion had been discredited by factious license, by wild and dangerous theories, by turbulence and sedition, — the government and legislature, in guarding against these excesses, had discountenanced and repressed legitimate agitation. The advocates of parliamentary reform had been confounded with Jacobins and fomenters of revolution. Men who boldly im-

Review of the contest between authority and liberty of opinion.

[1] Ann. Reg., 1820, p. 34, and Chron. 29; St. Tr., xxxiii. 681; Lord Sidmouth's Life, iii. 311-325. Lord Sidmouth himself says (p. 320):—"Party feelings appeared to be absorbed in those of indignation, which the lower orders had also evinced very strikingly upon the occasion."

[2] Ann. Reg., 1820; Chron. 41; Barn. and Ald. Rep, iii. 566; Bamford's Life of a Radical, ii. 56-103, 162.

peached the conduct of their rulers, had been punished for sedition. The discussion of grievances — the highest privilege of freemen — had been checked and menaced. The assertion of popular rights had been denounced by ministers and frowned upon by society, until low demagogues were able to supplant the natural leaders of the people in the confidence of those classes who most needed safe guidance. Authority was placed in constant antagonism to large masses of people, who had no voice in the government of their country. Mutual distrust and alienation grew up between them. The people lost confidence in rulers whom they knew only by oppressive taxes, and harsh laws severely administered. The government, harassed by suspicions of disaffection, detected conspiracy and treason in every murmur of popular discontent.[1]

Hitherto the government had prevailed over every adverse influence. It had defied parliamentary opposition by never-failing majorities: it had trampled upon the press: it had stifled public discussion. In quelling sedition, it had forgotten to respect liberty. But henceforward, we shall find its supremacy gradually declining, and yielding to the advancing power and intelligence of the people. The working classes were making rapid advances in numbers, industrial resources, and knowledge. Commerce and manufactures, bringing them together in large masses, had given them coherence and force. Education had been widely extended; and discontent had quickened political inquiry. The press had contributed to the enlightenment of the people. Even demagogues who had misled hem, yet stirred up their minds to covet knowledge and te ove freedom. The numbers, wealth, and influence of the

Final domination of opinion over authority.

[1] On May 12th, 1817, Earl Grey truly said: — "It is no longer the encroachments of power, of which we are jealous, but the too great extension of freedom. Every symptom of popular uneasiness, every ill-regulated effort of that spirit, without which liberty cannot exist, but which, whilst it exists, will break out into occasional excesses, affords a pretence which we seem emulous to seize, for imposing on it new restraints." — *Hans. Deb* 1st Ser., xxxvi. 446.

middle classes had been extended, to a degree unknown at any former period. A new society had sprung up, outnumbering the limited class by whom the state was governed, and rapidly gaining upon them in enlightenment and social influence. Superior to the arts of demagogues, and with every incitement to loyalty and patriotism, — their extended interests and important position led them to watch, with earnestness and sober judgment, the course of public affairs. Their views were represented by the best public writers of the time, whose cultivated taste and intellectual resources received encouragement from their patronage. Hence was formed a public opinion of greater moral force and authority. The middle classes were with ministers in quelling sedition; but against them when they menaced freedom. During the war they had generally sided with the government; but after the peace, the unconciliatory policy of ministers, a too rigorous repression of the press, and restraints upon public liberty, tended to estrange those who found their own temperate opinions expressed by the leaders of the Parliamentary Opposition. Their adhesion to the Whigs was the commencement of a new political era,[1] fruitful of constitutional growth and renovation. Confidence was established between constitutional statesmen in Parliament and the most active and inquiring minds of the country. Agitation, no longer left to demagogues and operatives, but uniting the influence of all classes under eminent leaders, became an instrument for influencing the deliberations of Parliament, — as legitimate as it was powerful.

From this time, public opinion became a power which ministers were unable to subdue, and to which statesmen of all parties learned, more and more, to defer. In the worst of times, it had never been without its influence; but from the accession of George IV. it gathered strength until it was able, as we shall see, to dominate over ministers and parliaments.

[1] See *supra*, p. 60.

Meanwhile, the severities of the law failed to suppress libels,[1] or to appease discontents. Complaints of both evils were as rife as ever. A portion of the press still abounded in libels upon public and private character, which the moral tone of its readers did not yet discourage. It was not in default of legal repression that such libels were published; but because they were acceptable to the vitiated taste of the lower classes of that day. If severity could have suppressed them, the unthankful efforts of the attorney-general, the secretary of state, and the magistrates, would have long since been crowned with success. But in 1821, the Constitutional Association officiously tendered its intervention, in the execution of the law. The dangers of such a scheme had been exposed nearly thirty years before;[2] and were at once acknowledged in a more enlightened and dispassionate age. This association even ventured to address a circular to every justice of the peace, expounding the law of libel. An irresponsible combination, embracing magistrates and jurymen throughout the country, and almost exclusively of one political party, threatened the liberty of the press, and the impartial administration of justice. The Court of King's Bench, sensible of these dangers, allowed members of the association to be challenged as jurors; and discussions in Parliament, opportunely raised by Mr. Brougham and Mr. Whitbread, completed the discomfiture of those zealous gentlemen, whom the vigilance of Lord Sidmouth, the activity of the attorney-general, and the zeal of country justices had failed to satisfy.[3] Had ministers needed any incitement

The press not purified by rigor.

The Constitutional Society, 1821

[1] Mr. Fremantle, writing to the Marquess of Buckingham, Aug. 30th, 1820, says: — "The press is completely open to treason, sedition, blasphemy, and falsehood, with impunity." . . . "I don't know whether you see *Cobbett's Independent Whig*, and many other papers now circulating most extensively, and which are dangerous much beyond anything I can describe. I have an opportunity of seeing them, and can speak, therefore, from knowledge." — *Court and Cabinets of Geo. IV.*, i. 68; Cockburn's Mem., 308.

[2] See *supra*, p. 144.

[3] Ann. Reg., 1821, p. 205; Edinb. Rev., vol. xxxvii. (1821) 114–131; Hans. Deb., 2d Ser., v. 891, 1046, 1487–1491.

to vigor, they would have received it from the king himself, who took the deepest personal interest in prosecutions of the press ;[1] and from men of rank and influence, who were oversensitive to every political danger.[2]

Catholic Association.

The government had soon to deal with a political organization more formidable than any which had hitherto needed its vigilance, — the Catholic Association in Ireland. The objects, constitution, and proceedings of this body demand especial notice, as exemplifying the bound within which political agitation may be lawfully practised To obtain the repeal of statutes imposing civil disabilities upon five sixths of the population of Ireland, was a legitimate object of association. It was no visionary scheme, tending to the subversion of the state: but a practical measure of relief, which had been urged upon the legislature by the first statesmen of the time. To attain this end, it was lawful to instruct and arouse the people, by speeches and tracts, and by appeals to their reason and feelings. It was also lawful to demonstrate to Parliament the unanimity and earnestness of the people in demanding a redress of grievances ; and to influence its deliberations by the moral force of a great popular movement. With these objects, organization, in various forms, had been at work for many years.[3] In 1809, a Catholic Committee had been formed in Dublin, of which Mr. O'Connell — destined to become a prominent figure in the history of his country — was a leading member. Active

[1] On January 9th, 1821, His Majesty wrote to Lord Eldon: — "As the courts of law will now be open within a few days, I am desirous to know the decision that has been taken by the attorney-general upon the mode in which all the vendors of treason, and libellers, such as Benbow, &c., &c., are to be prosecuted. This is a measure so vitally indispensable to my feelings, as well as to the country, that I must insist that no further loss of time should be suffered to elapse before proceedings be instituted." — *Court and Cabinets of Geo. IV.*, i. 107.

[2] *Ibid.*, 121, &c.; Lord Colchester's Mem., iii. 87, &c.

[3] The first association or committee was formed so far back as 1760. — *Wyse's Cath. Asso.*, i. 69; *O' Conor's Hist. of the Irish Catholics*, i. 262. Another committee was arranged in 1773. — *Wyse*, i. 91; and a more general committee or association in 1790. — *Ibid.*, 104.

in the preparation of petitions, and holding weekly meetings, it endeavored, by discussion and association, to arouse the Catholics to a sense of their wrongs.[1] In 1811, it endeavored to enlarge its constitution by assembling managers of petitions from all parts of Ireland; but this project was arrested by the government, as a contravention of the Irish Convention Act, which prohibited the appointment of delegates or representatives.[2] The movement now languished for several years;[3] and it was not until 1823 that the Catholic Association was formed on a wider basis.[4] It embraced Catholic nobles, gentry, priesthood, peasantry;[5] and though disclaiming a delegated authority, its constitution and objects made it, in effect, the representative of the Catholic body. Exclusively Catholic, its organization embraced the whole of Ireland. Constantly increasing in numbers and influence, it at length assumed all the attributes of a national parliament. It held its "sessions" in Dublin, appointed committees, received petitions, directed a census of the population of Ireland to be taken; and, above all, levied contributions, in the form of a Catholic rent, upon every parish in Ireland.[6] Its stirring addresses were read from the altars of all Catholic chapels. Its debates, abounding in appeals to the passions of the people, were published in every newspaper. The speeches of such orators as O'Connell and Shiel could not fail to command attention; but additional publicity was secured to all the proceedings of the Association, by contributions from the Catholic rent.

In 1825, its power had become too great to be borne, if

[1] Wyse, i. 142–165.

[2] 33 Geo. III. c. 29 (Ireland); see Debates, Feb. 22d, March 7th, and April 4th, 1811. — *Hans. Deb.*, 1st Ser., xix. 1–18, 269–321, 700; Wyse, i. 174–178.

[3] A Catholic board was formed, but soon dissolved. — *Wyse*, i. 179.

[4] *Ibid.*, 199.

[5] *Ibid.*, 205.

[6] Hans. Deb., 2d Ser., xi. 944 (May 31st, 1824); *Ibid.*, xii. 171, *et seq.* (Feb. 10–15); Wyse, i. 208–217. Mr. Wyse assigns a later date to this census, i. 247; *Ibid.*, ii. App. xxxvii.

the authority of the state was to be upheld. Either the Parliament at Westminster, or its rival in Dublin, must give way. The one must grant the demands of the Catholics, or the other must be silenced. Ministers were not yet prepared for the former alternative; and determined to suppress the Catholic Association. This, however, was a measure of no ordinary difficulty. The association was not unlawful; and was engaged in forwarding a legitimate cause. It could not be directly put down, without a glaring violation of the right of discussion and association. Agitation was not to be treated as lawful, so long as it was impotent; and condemned when it was beginning to be assured of success. This embarrassment was avoided by embracing in the same measure, Orange Societies and other similar bodies, by which political and religious animosities were fomented.

Suppressed by Parliament, 1825.

The king, on opening Parliament, adverted to "associations which have adopted proceedings irreconcilable with the spirit of the constitution;" and a bill was immediately brought in to amend the laws relating to unlawful societies in Ireland. This bill prohibited the permanent sittings of societies, — the appointment of committees beyond a certain time, — the levying of money for the redress of grievances, — the affiliation and correspondence of societies, — the exclusion of persons on the ground of religion, — and the administration of oaths.[1] It was strenuously resisted. Ministers were counselled to stay agitation by redressing grievances, rather than by vain attempts to prevent their free discussion. But so perilous was the state of Ireland, so fierce the hatred of her parties, and so full of warning her history, — that a measure, otherwise open to grave constitutional objections, found justification in the declared necessity of insuring the public peace.[2] Its operation, however, was limited to three years.

Feb. 10th, 1825.

[1] 5 Geo. IV. c. 4.

[2] Hans. Deb., 2d Ser, xii. 2–122, 128–522, &c.

The Catholic Association was dissolved in obedience to this act; but was immediately replaced by a new association, constituted so as to evade the provisions of the recent law. This society professed to be established for promoting education and other charitable objects; and every week, a separate meeting was convened, purporting to be unconnected with the association. Fourteen days' meetings" and aggregate meetings were lso held; and at all these assemblies the same violent language was used, and the same measures adopted, as in the time of the original society. While thus eluding the recent statute, this astute body was beyond the reach of the common law, being associated neither for the purpose of doing any unlawful act, nor of doing any lawful act in an unlawful manner. It was equally unscathed by the Convention Act of 1793, as not professing a representative character. In other respects the new association openly defied the law. Permanent committees were appointed, and the Catholic rent was collected by their own "church-wardens" in every parish.[1] The government watched these proceedings with jealousy and alarm; but perceived no means of restraining them. The act was about to expire at the end of the session of 1828; and, after very anxious consideration, ministers determined not to propose its renewal. It could not have been made effectual without such restraints upon the liberty of speech and public meetings, as they could not venture to recommend, and which Parliament would, perhaps, have declined to sanction.[2]

But continued in another form

No sooner had the act expired, than the old Catholic Association, with all its organization and offensive tactics, was revived. At the same time, the Orange Societies were resuscitated. Protestant associa-

Catholic Association revived, 1828

[1] Opinion of Mr Joy, 1828; Sir R. Peel's Mem., i. 45; Wyse i. 222-246; *Ibid.*, ii. App. xxxix.

[2] Memorandum and Correspondence of Mr. Peel, the Marquess of Anglesey, and Mr. Lamb. — *Peel's Mem.*, i. 22–58, 150.

tions, called Brunswick Clubs, were established on the model of the Catholic Association, and collected a Protestant rent.[1]

Meanwhile, the agitation fomented by the Catholic Association was most threatening. Meetings were assembled to which large bodies of Catholics marched in military array, bearing flags and music, dressed in uniforms, and disciplined to word of command. Such assemblages were obviously dangerous to the public peace. Ministers and the Irish executive watched them with solicitude; and long balanced between the evils of permitting such demonstrations on the one side, and precipitating a bloody collision with excited masses of the people, on the other. They were further embarrassed by counter-demonstrations of the Protestants, and by the hot zeal of the Orange Societies, which represented their cautious vigilance as timidity, and their inaction as an abandonment of the functions of government. They were advised that such meetings, having no definite object sanctioned by law, and being assembled in such numbers and with such organization as to strike a well-grounded fear into peaceable inhabitants, were illegal by the common law, even when accompanied by no act of violence.[2] And at length they determined to prevent such meetings, and to concert measures for their dispersion by force.[3] A proclamation, being issued for that purpose, met with a ready obedience. It formed no part of the scheme of the Catholic leaders to risk a collision with military force, or with their Protestant rivals; and the association had already begun to discourage these dangerous assemblages, in anticipation of

Dangerous meetings. Sept., 1828.

Proclamation against them, Oct. 1st. 1828.

[1] Wyse, i. 347–359.

[2] Opinion of attorney and solicitor-general of England. — *Sir R. Peel's Mem.*, i. 225; Queen *v.* Soley, 11 Modern Reports, and King *v.* Hunt and others.

[3] The correspondence of Mr. Peel with Lord Anglesey and the Irish executive, discloses all the considerations by which the government was influenced, under circumstances of great embarrassment. — *Sir R. Peel's Mem.*, i. 207–231.

disorders injurious to their cause. The immediate object of the government was secured: but the association — while it avoided a contest with authority — adroitly assumed all the credit of restoring tranquillity to the country.[1]

But the proceedings of the association itself became more violent and offensive than ever. Its leaders were insolent and defiant to the government, and exercised an absolute sway over the Catholic population. In vain the governmen took counsel with its law officers.[2] Neither the Conventior Act of 1793 nor the common law could be relied on, for re straining the proceedings of an association which the legislature itself had interposed, three years before, to condemn. Peace was maintained, as the Catholics were unwilling to disturb it: but the country was virtually under the dominion of the association.

In the following year, however, the suppression of this and other societies in Ireland formed part of the general scheme of Catholic Emancipation.[3] The Catholic Association was, at length, extinguished; but not until its objects had been fully accomplished. It was the first time a measure had been forced upon a hostile court and reluctant Parliament, a dominant party and an unwilling people, by the pressure of a political organization. The abolition of the slave-trade was due to the conviction which had been wrought by facts, arguments, and appeals to the moral and religious feelings of the people. But the Catholic cause owed its triumph to no such moral conversion. The government was overawed by the hostile demonstrations of a formidable confederacy, supported by the Irish people and priesthood, and menacing authority witl their physical force. It was, in truth, a dangerous example and threatened the future independence of Parliament. But, however powerful this association, its efforts would have been

Suppression of the association in 1829.

[1] Ann. Reg., 1828, p. 140–146; Peel's Mem., i. 232.

[2] Peel's Mem., i. 243–264.

[3] *Infra*, p. 374; 10 Geo. IV. c. 1.

paralyzed without a good cause, espoused by eminent statesmen and an influential party in Parliament. The state would have known how to repel irrational demands, however urged; but was unable to resist the combined pressure of parliamentary and popular force, the sympathies of many liberal Protestants in Ireland, and the steady convictions of an enlightened minority in England. In our balanced constitution, political agitation, to be successful, must be based on a real grievance, adequately represented in Parliament and in the press, and supported by the rational approval of enlightened men. But though the independence of Parliament remained intact, the triumph of the Catholic Association marked the increased force of political agitation, as an element in our constitution. It was becoming superior to authorities and party combinations, by which the state had hitherto been governed.

A good cause necessary for successful agitation.

During the short reign of George IV., the influence of public opinion made steady advances. The press obtained a wider extension; and the people advanced in education, intelligence, and self-reliance. There was also a marked improvement in political literature, corresponding with the national progess. And thus the very causes which were increasing the power of the people, were qualifying them to use it wisely.

Increased influence of public opinion in reign of George IV.

Improvement of the press.

It was not by the severities of the law that the inferior press was destined to be improved, and its mischievous tendencies corrected. These expedients — after a trial of two centuries — had failed. But moral causes were in operation by which the general standard of society was elevated. The church and other religious bodies had become more zealous in their sacred mission:[1] society was awakening to the duty of educating the people; and the material progress of the country was developing a more general and active intelli-

[1] See *infra*, p. 412

gence. The classes most needing elevation had begun to desire sound and wholesome instruction; and this inestimable benefit was gradually extended to them. Improved publications successfully competed for popular favor with writings of a lower character; and, in cultivating the public taste, at the same time raised the general standard of periodical literature. A large share of the credit of this important work is due to the Society for the Diffusion of Useful Knowledge, established in 1826, and to the exertions of its chief promoters, Lord Brougham and Mr. Charles Knight.[1] The publications of this society were followed by those of the Society for Promoting Christian Knowledge, and by the admirable serials of Messrs. Chambers. By these and other periodical papers, — as well political as literary, — an extraordinary impulse was given to general education. Public writers promptly responded to the general spirit of the time; and the aberrations of the press were in great measure corrected.

The government, however, — while it viewed with alarm the growing force of public opinion, which controlled its own authority, — failed to observe its true spirit and tendency. Still holding to the traditions of a polity, then on the very point of exhaustion, it was unable to reconcile the rough energies of popular discussion with respect for the law and obedience to constituted authority. It regarded the press as an obstacle to good government, instead of conciliating its support by a bold confidence in public approbation.

Duke of Wellington's prosecutions of the press, 1830.

This spirit dictated to the Duke of Wellington's administration its ill-advised prosecutions of the press in 1830. By passing the Roman Catholic Relief Act, ministers had provoked the resentment of the Tory press; and foremost among their assailants was the "Morning Journal." One article, appearing to impute personal corruption to Lord Chancellor Lyndhurst,

[1] Edinb. Rev., xlvi. 225, &c.

could not be overlooked; but the editor having sworn that his lordship was not the person alluded to, an information against him was abandoned. The attorney-general, however, now filed no less than three *ex-officio* informations against the editor and proprietors, for this and two other articles, as libels upon the king, the ministers, and Parliament. A fourth prosecution was also instituted, for a separate libel upon the Duke of Wellington. So soon as the personal character of a member of the administration had been cleared, ministers might have allowed animadversions upon their public conduct to pass with impunity. If the right of free discussion was not respected, the excitement of the times might have claimed indulgence. Again, the accumulation of charges against the same persons betrayed a spirit of persecution. It was not justice that was sought, but vengeance, and the ruin of an obnoxious journal. So far as the punishment of their political foes was concerned, ministers prevailed.[1] But their success was gained at the expense of much unpopularity. Tories, sympathizing with writers of their own party, united with the opposition in condemning this assault upon the liberty of the press. Nor was the temper of the people such as to bear, any longer, with complacency, a harsh execution of the libel laws. The unsuccessful prosecution of Cobbett, in the following year, by a Whig attorney-general, nearly brought to a close the long series of contests between the government and the press.[2]

Failure of prosecution of Cobbett, 1831.

[1] Verdicts were obtained in three out of the four prosecutions. In the second a partial verdict only was given (guilty of libel on the king, but not on his ministers), with a recommendation to mercy,—Mr. Alexander, the editor, being sentenced to a year's imprisonment, a fine of £300, and to give security for good behavior during three years; and the proprietors to lesser punishments. — Ann. Reg., 1830, p. 3, 119; Hans. Deb., 2d Ser., xxii. 1167.

[2] He was charged with no libel on ministers, but with inciting laborers to burn ricks; Ann. Reg., 1831, Chron., p. 95. In the same year Carlile and Haley were indicted; and in 1833, Reeve, Ager, Grant, Bell, Hetherington, Russell, and Stevens. — Hunt's Fourth Est., ii. 67; Roebuck's Hist. of the Whig Ministry, ii. 219, *n.*

Since that time, the utmost latitude of criticism and invective has been permitted to the press, in discussing public men and measures. The law has rarely been appealed to, even for the exposure of malignity and falsehood. Prosecutions for libel, like the censorship, have fallen out of our constitutional system. When the press errs, it is by the press itself, that its errors are left to be corrected. Repression has ceased to be the policy of rulers; and statesmen have at length fully realized the wise maxim of Lord Bacon, that "the punishing of wits enhances their authority; and a forbidden writing is thought to be a certain spark of truth, that flies up in the faces of them that seek to tread it out."

Complete freedom of the press established.

Henceforth the freedom of the press was assured; and nothing was now wanting to its full expansion, but a revision of the fiscal laws, by which its utmost development was restrained. These were the stamp, advertisement, and paper duties. It was not until after a struggle of thirty years, that all these duties were repealed: but in order to complete our survey of the press, their history may, at once, be briefly told.

Fiscal laws affecting the press.

The newspaper stamp of Queen Anne had risen, by successive additions, to fourpence. Originating in jealousy of the press, its extension was due, partly to the same policy, and partly to the exigencies of finance. So high a tax, while it discouraged cheap newspapers, was naturally liable to evasion. Tracts, and other unstamped papers, containing news and comments upon public affairs, were widely circulated among the poor; and it was to restrain this practice, that the stamp laws had been extended to that class of papers by one of the Six Acts.[1] They were denounced as seditious and blasphemous, and were to be extinguished. But the passion for news and political discussion was not to be repressed; and unstamped publications were more rife than ever. Such papers occupied the same

Newspaper stamps.

[1] 60 Geo. III. c. 9; *supra*, p. 197.

place in the periodical press, as tracts printed, at a former period, in evasion of the licenser. All concerned in such papers were violating the law, and braving its terrors: the jail was ever before their eyes. This was no honorable calling; and none but the meanest would engage in it. Hence the poor, who most needed wholesome instruction, received the very worst from a contraband press. During the Reform agitation, a new class of publishers, of higher character and purpose, set up unstamped newspapers for the working classes, and defied the government in the spirit of Prynne and Liburne. Their sentiments, already democratic, were further embittered by their hard wrestling with the law. They suffered imprisonment, but their papers continued in large circulation: they were fined, but their fines were paid by subscription. Prosecutions against publishers and venders of such papers were now becoming a serious aggravation of the criminal law. Prisons were filled with offenders;[1] and the state was again at war with the press in a new form.

Unstamped newspapers.

If the law could not overcome the unstamped press, it was clear that the law itself must give way. Mr. Lytton Bulwer[2] and Mr. Hume exposed the growing evils of the newspaper stamp: ministers were too painfully sensible of its embarrassments; and in 1836 it was reduced to one penny, and the unstamped press was put down. At the same time, a portion of the paper duty was remitted. Already, in 1833, the advertisement duty had been reduced; and newspapers now labored under a lighter weight.

Taxes on knowledge.

Meanwhile, efforts had been made to provide an antidote for the poison circulated in the lowest of the unstamped papers, by a cheap and popular literature without news;[3] but the progress of this beneficent work dis-

[1] From 1831 to 1835 there were no less than 728 prosecutions, and about 500 cases of imprisonment.—Mr. Hume's Return, Sept. 1836, No. 21; Hunt's Fourth Estate, 69-87.

[2] June 14th, 1832; Hans. Deb., 3d Ser., xiii. 619.

[3] *Supra*, p. 211.

closed the pressure of the paper duty upon all cheap publications, the cost of which was to be repaid by extensive circulation. Cheapness and expansion were evidently becoming the characteristics of the periodical press; to which every tax, however light, was an impediment. Hence a new movement for the repeal of all "taxes on knowledge," led by Mr. Milner Gibson, with admirable ability, address, and persistence. In 1853, the advertisement duty was swept away; and in 1855, the last penny of the newspaper stamp was relinquished. Nothing was now left but the duty on paper; and this was assailed with no less vigor. Denounced by penny newspapers, which the repeal of the stamp duty had called into existence: complained of by publishers of cheap books; and deplored by the friends of popular education, it fell, six years later, after a parliamentary contest memorable in history.[1] And now the press was free alike from legal oppression and fiscal impediments. It stands responsible to society for the wise use of its unlimited franchises; and, learning from the history of our liberties, that public virtue owes more to freedom than to jealousy and restraint, may we not have faith in the moderation of the press and the temperate judgment of the people?

Public jealousies of the press.

The influence of the press has extended with its liberty; but it has not been suffered to dominate over the independent opinion of the country. The people love freedom too well to bow the knee to any dictator, whether in the council, the senate, or the press. And no sooner has the dictation of any journal, conscious of its power, become too pronounced, than its influence has sensibly declined. Free itself, the press has been taught to respect, with decency and moderation, the freedom of others.

General freedom of opinion.

Opinion — free in the press, free in every form of public discussion — has become not less free in society. It is never coerced into silence or conformity, as in America, by the tyrannous force of a ma-

[1] Hans. Deb., 3d Ser., cxxv. 118; cxxviii. 1128; cxxxvii. 1110, &c

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jority.[1] However small a minority: however unpopular, irrational, eccentric, perverse, or unpatriotic its sentiments: however despised or pitied; it may speak out fearlessly, in full confidence of toleration. The majority, conscious of right and assured of its proper influence in the state, neither fears nor resents opposition.[2]

Political unions, 1831.

The freedom of the press was fully assured before the passing of the Reform Act; and political organization — more potent than the press — was now about to advance suddenly to its extreme development. The agitation for Parliamentary Reform in 1831–32 exceeded that of any previous time, in its wide-spread organization, in the numbers associated, in earnestness, and faith in the cause. In this agitation there were also notable circumstances, wholly unprecedented. The middle and the working classes were, for the first time, cordially united in a common cause: they were led by a great constitutional party; and, — more remarkable still, — instead of opposing the government, they were the ardent supporters of the king's ministers. To these circumstances is mainly due the safe passage of the country through a most perilous crisis. The violence of the masses was moderated by their more instructed associates, — who, again, were admitted to the friendly counsels of many eminent members of the ministerial party. Popular combination assumed the form of "Political Unions,"

The Birmingham Political Union.

which were established in the metropolis and in all the large towns throughout the country. Of the provincial unions, that of Birmingham took the lead. Founded for another purpose so early as January,

[1] "Tant que la majorité est douteuse, on parle; mais dès qu'elle s'est irrévocablement prononcée, chacun se tait, et amis comme ennemis semblent alors s'attacher de concert à son char." — *De Tocqueville, Democr. en Amer.*, i. 307.

[2] In politics this is true nearly to the extent of Mr. Mill's axiom: "If all mankind, minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind." — *On Liberty*, 33.

1830,[1] it became the type of most other unions throughout the country. Its original design was "to form a general political union between the lower and middle classes of the people;"[2] and it "called, with confidence, upon the ancient aristocracy of the land to come forward, and take their proper station at the head of the people, in this great crisis of the national affairs."[3] In this spirit, when the Reform agitation commenced, the council thought it prudent not to "claim universal suffrage, vote by ballot, or annual parliaments, because all the upper classes of the community, and the great majority of the middle classes, deem them dangerous, and the council cannot find that they have the sanction of experience to prove them safe."[4] And throughout the resolutions and speeches of the society, the same desire was shown to propitiate the aristocracy, and unite the middle and working classes.[5]

Before the fate of the first Reform Bill was ascertained, the political unions confined their exertions to debates and resolutions in favor of Reform, and the preparation of numerous petitions to Parliament. Already, indeed, they boasted of their numbers and physical force. The chairman of the Birmingham Union vaunted that they could find two armies, — each as numerous and brave as that which conquered at Waterloo, — if the king and his ministers required them.[6] But however strong the language sometimes used, discussion and popular association were, as yet, the sole objects of these unions. No sooner,

Activity of the unions.

[1] Curiously enough, it was founded by Mr. Thomas Attwood, a Tory, to advance his currency doctrines, and to denounce the resumption of cash payments in 1819. — Report of Proceedings, Jan. 25th, 1830 (Hodgett's Birmingham).

[2] Requisition to High Bailiff of Birmingham, Jan., 1830.

[3] Report of Proceedings, Jan. 25th, 1830, p. 12.

[4] Report of Council, May 17th, 1830.

[5] Proceedings of Union, *passim*. "You have the flower of the nobility with you; you have the sons of the heroes of Runnymede with you: the best and the noblest blood of England is on your side." — *Birmingham Journal*, May 14th, 1832.

[6] Ann. Reg., 1831, p. 80.

however, was the bill lost, and Parliament dissolved, than they were aroused to a more formidable activity. Their first object was to influence the elections, and to secure the return of a majority of reformers. Electors and non-electors, co-operating in these unions, were equally eager in the cause of reform; but with the restricted franchises of that time, the former would have been unequal to contend against the great territorial interests opposed to them. The unions, however, threw themselves hotly into the contest; and their demonstrations, exceeding the license of electioneering, and too often amounting to intimidation, overpowered the dispirited anti-reformers. There were election riots at Wigan, at Lanark, at Ayr, and at Edinburgh.[1] The interposition of the unions, and the popular excitement which they encouraged, brought some discredit upon the cause of Reform; but contributed to the ministerial majority in the new Parliament.

Meetings and petitions.

As the parliamentary struggle proceeded upon the second Reform Bill, the demonstrations of the political unions became more threatening. Meetings were held, and petitions presented, which, in expressing the excited feelings of vast bodies of men, were, at the same time, alarming demonstrations of physical force. When the measure was about to be discussed in the House of Lords, a meeting of 150,000 men, assembled at Birmingham, declared by acclamation that if all other constitutional means of insuring the success of the Reform Bill should fail, they would refuse the payment of taxes, as John Hampden had refused to pay ship-money, except by a levy upon their goods.[2]

Oct. 3d, 1831.

Conflict between the nobles and the people.

It was the first time, in our history, that the aristocracy had singly confronted the people. Hitherto the people had contended with the crown,— supported by the aristocracy and large classes of the com-

[1] Ann. Reg., 1831, p. 152.

[2] Ann. Reg., 1831, p. 282. See Hans. Deb., 3d Ser., vii. 1323; Report of Proceedings of Meeting at Newhall Hill, Oct. 3d, 1831; Speech of Mr Edmonds, &c.; Roebuck's Hist. of the Whig Ministry, ii. 218.

munity: now the aristocracy stood alone, in presence of a popular force, almost revolutionary. If they continued the contest too long for the safety of the state, they at least met its dangers with the high courage which befits a noble race. Unawed by numbers, clamor, and threats, the Lords rejected the second Reform Bill. The excitement of the time now led to disorders disgraceful to the popular cause. Mobs paraded the streets of London, hooting, pelting and even assaulting distinguished peers, and breaking their windows.[1] There were riots at Derby: when, some rioters being seized, the mob stormed the jail and set the prisoners free. At Nottingham, the Castle was burned by the populace, as an act of vengeance against the Duke of Newcastle. In both these places, the riots were not repressed without the aid of a military force.[2] For two nights and days, Bristol was the prey of a turbulent and drunken rabble. They broke into the prisons, and having let loose the prisoners, deliberately set on fire the buildings. They rifled and burned down the Mansion House, the Bishop's Palace, the Custom House, the Excise Office, and many private houses. The irresolution and incapacity of magistrates and military commanders left a populous and wealthy city at the mercy of thieves and incendiaries: nor was order at length restored without military force and loss of life, which a more timely and vigorous interposition might have averted.[3] These painful events were deplored by reformers, as a disgrace and hindrance to their cause; and watched by their opponents, as probable inducements to reaction.

Riots on rejection of second Reform Bill.

Oct. 29th, 1831.

Hitherto the political unions had been locally organized, and independent of one another, while forwarding an object common to all. They were daily growing more dangerous; and the scheme of an armed

Political unions invited to send delegates.

[1] Ann. Reg., 1831, p. 280; Life of Lord Eldon, iii. 153; Courts and Cabinets of Will. IV. and Queen Vict., i. 364.

[2] Ann. Reg., 1831, p. 280.

[3] Ann. Reg., 1831, p. 291. Twelve persons were killed, and ninety-four wounded and injured.

national guard was soon projected. But however threatening their demonstrations, they had been conducted within the bounds of law. In November, 1831, however, they assumed a different character. A National Union was formed in London, to which the several provincial unions throughout the country were invited to send delegates. From that time, the limits of lawful agitation were exceeded; and the entire organization became illegal.[1]

Alarming meetings held.

At the same time, meetings assembled in connection with the unions were assuming a character more violent and unlawful. The Metropolitan Union, — an association independent of the London Political Union, and advocating extreme measures of democratic reform, — gave notice, in a seditious advertisement, of a meeting for the 7th of November, at White Conduit House. The magistrates of Hatton Garden issued a notice declaring the proposed meeting seditious and illegal; and enjoining loyal and well-disposed persons not to attend it. Whereupon a deputation of working men waited upon Lord Melbourne, at the Home Office, and were convinced by his lordship of the illegality of their proceedings. The meeting was at once abandoned.[2] Danger to the public peace was averted by confidence in the government. Some exception was taken to an act of official courtesy towards men compromised by sedition; but who can doubt the wisdom of preventing, rather than punishing, a breach of the law.

Proclamation against political unions

Lawful agitation could not be stayed; but when associations, otherwise dangerous, had begun to transgress the law, Ministers were constrained to interfere; and accordingly, on the 22d of November, 1831, a proclamation was issued for the repression of political unions. It pointed out that such associations, "composed of separate bodies, with various divisions and subdivisions, under leaders with a gradation of ranks and

[1] 39 Geo. III. c. 79; 57 Geo. III. c. 19; *supra*, pp. 173, 184.

[2] Ann. Reg., 1831, p. 297.

authority, and distinguished by certain badges, and subject to the general control and direction of a superior council," were "unconstitutional and illegal," and commanded all loyal subjects to refrain from joining them. The "National Political Union" denied that this proclamation applied to itself, or to the majority of existing unions. But the Birmingham Union modified an extensive organization of unions, in the Midland Counties, which had been projected; and the system of delegation, correspondence and affiliation was generally checked and discouraged.[1]

Unions discountenanced in Parliament.

On the meeting of Parliament on the 6th of December, political unions were further discountenanced in the speech from the throne, in which His Majesty declared that such combinations were incompatible with regular government, and signified his determination to repress all illegal proceedings.[2]

Unions more threatening than ever.

But an organization directed to the attainment of Parliamentary Reform could not be discontinued until that object was accomplished. The unions continued in full activity; their numbers were increased by a more general adhesion of the middle classes; and if ostensibly conforming to the law, in their rules and regulations, their proceedings were characterized, more than ever, by menace and intimidation. When the third Reform Bill was awaiting the Committee in the Lords, immense meetings were assembled at Birmingham, Manchester, Edinburgh, Glasgow, and other populous places, which by their numbers, combination, and resolute purpose, as well as by the speeches made and petitions agreed to, proclaimed a determination to overawe the Peers, who were still opposed to the bill. The withholding of taxes was again threatened, and even the extinction of the peerage itself, if the bill should be rejected. On the 7th of May, 1832, all the unions of the counties of Warwick, Worcester, and Stafford assembled at Newhall

[1] Ann. Reg., 1831, p. 297; Twiss' Life of Lord Eldon, iii. 163.
[2] Hans. Deb., 3d Ser., ix. 5.

Hill, Birmingham, to the number of nearly 150,000. A petition to the Commons was there agreed to, praying them to withhold the supplies, in order to insure the safety of the Reform Bill; and declaring that the people would think it necessary to have arms for their defence. Other petitions from Manchester and elsewhere, praying that the supplies might be withheld, were brought to London by excited deputations.[1]

Dangerous excitement during the Reform crisis.

The adverse vote of the Lords in Committee, and the resignation of the reform ministry, was succeeded by demonstrations of still greater violence. Revolutionary sentiments, and appeals to force and coercion, succeeded to reasoning and political agitation. The immediate creation of peers was demanded. "More lords, or none:" to this had it come, said the clamorous leaders of the unions. A general refusal of taxes was counselled. The Commons, having declared themselves not to be representatives of the people, had no right to vote taxes. Then why should the people pay them? The National Political Union called upon the Commons to withhold supplies from the Treasury, and intrust them to commissioners named by themselves. The metropolis was covered with placards inviting the people to union, and a general resistance to the payment of taxes. A run upon the Bank for gold was counselled, "to stop the Duke." The extinction of the privileged orders,—and even of the monarchy itself,—general confusion and anarchy, were threatened. Prodigious crowds of people marched to open-air meetings, with banners and revolutionary mottoes, to listen to the frantic addresses of demagogues, by whom these sentiments were delivered.[2] The refusal to pay taxes was even encouraged by men of station and influence, — by Lord Milton, Mr. Duncombe, and Mr. William

[1] Ann. Reg., 1832, p. 172; Hans. Deb., 3d Ser., xii. 876, 1032, 1274, Roebuck's Hist. of the Whig Ministry, ii. 295; Prentice's Recollections of Manchester, 408–415.

[2] Ann. Reg., 1832, p. 169, *et seq.*; Roebuck's Hist. of the Whig Ministry, ii. 288–297.

Brougham.[1] The press also, responding to the prevailing excitement, preached resistance and force.[2]

The limits of constitutional agitation and pressure had long been exceeded; and the country seemed to be on the very verge of revolution, when the political tempest was calmed by the final surrender of the Lords to the popular will. An imminent danger was averted; but the triumph of an agitation conducted with so much violence, and marked by so many of the characteristics of revolution, portended serious perils to the even course of constitutional government. The Lords alone had now been coerced; but might not the executive, and the entire legislature, at some future period, be forced to submit to the like coercion? Such apprehensions were not without justification from the immediate aspect of the times; but further experience has proved that the success of this popular measure was due, not only to the dangerous pressure of democracy, but to other causes not less material to successful agitation, — the inherent justice of the measure itself, the union of the middle and working classes under the guidance of their natural leaders, and the support of a strong parliamentary party, embracing the majority of one house and a considerable minority in the other.

Considerations upon the popular triumph.

At the very time when this popular excitement was raging in England, an agitation of a different kind, and followed by results widely dissimilar, had been commenced in Ireland. Mr. O'Connell, emboldened by his successful advocacy of the Catholic-claims, resumed the exciting and profitable arts of the demagogue; and urged the repeal of the legislative union of England and Ireland. But his new cause was one to which no agitation promised success. Not a statesman could be found to counsel the dismemberment of the empire. All political parties alike repudiated

Agitation for the repeal of the Union, 1830–31.

[1] Roebuck's Hist. of the Whig Ministry, ii. 291, 297; Hans. Deb., 3d Ser., xiii. 430, June 5th, 1832.

[2] Courts and Cabinets of Will. IV. and Vict. i. 303–331.

it: the press denounced it: the sense of the nation revolted against it. Those who most deplored the wrongs and misgovernment of Ireland, foresaw nothing but an aggravation of those evils, in the idle and factious cry for repeal. But Mr. O'Connell hoped, by demonstrations of physical force, to advance a cause which met with none of that moral support which is essential to success. On the 27th of December, 1830, a procession of trades' unions through the streets of Dublin was prevented by a proclamation of the lord-lieutenant, under the Act for the suppression of dangerous assemblies and associations in Ireland,[1] as dangerous to the public peace. An association was then formed "for the prevention of unlawful meetings;" but again, the meeting of this body was prohibited by proclamation. Mr. O'Connell's subtle and crafty mind quickly planned fresh devices to evade the Act. First, to escape the meshes of the law against societies, he constituted himself the "Pacificator of Ireland," and met his friends once a week at a public breakfast at Home's Hotel. These meetings were also proclaimed illegal, under the Act. Next, a number of societies were formed, with various names, but all having a common object. All these — whatever their pretext and devices — were prohibited.

Mr. O'Connell's contests with the Irish executive, 1830–31.

Mr. O'Connell now resorted to public meetings, by which the acts of the lord-lieutenant were denounced as tyrannical and unlawful: but he was soon to quail before the law. On the 18th of January, 1831, he was apprehended and held to bail, with some of his associates, on informations charging him with having held various meetings, in violation of the lord-lieutenant's proclamation. True bills having been found against him, he pleaded not guilty to the first fourteen counts and put in demurrers to the others. But not being prepared to argue the demurrers, he was permitted to

Mr. O'Connell submits to the law, 1831.

[1] 10 Geo. IV. c. 1, by which the Catholic Association had been suppressed (*supra*, p. 209). It was in force for one year from March 5th, 1829, and until the end of the then next session of Parliament.

withdraw them, and enter a plea of not guilty. This plea, again, he soon afterwards withdrew, and pleaded guilty to the first fourteen counts in the indictment; when the attorney-general entered a *nolle prosequi* on the remaining counts, which charged him with a conspiracy. So tame a submission to the law, after intemperate defiance and denunciations, went far to discredit the character of the great agitator. He was, however, suffered to escape without punishment. He was never brought up for judgment; and the act of 1829, not having been renewed, expired at the end of the short session, in April 1831.[1] The repeal agitation was for a time repressed. Had its objects and means been worthier, it would have met with more support. But the government, relying upon public opinion, had not shrunk from a prompt vindication of the law; and men of every class and party, except the followers of Mr. O'Connell himself, condemned the vain political delusions, by which the Irish people had been disturbed.

This baneful agitation, however, was renewed in 1840, and continued, for some time, in forms more dangerous and mischievous than ever. A Repeal Association was formed with an extensive organization of members, associates, and volunteers, and of officers designated as inspectors, repeal-wardens, and collectors. By the agency of these officers, the repeal rent was collected, and repeal newspapers, tracts, poems, songs, cards, and other devices disseminated among the people. In 1843, many monster meetings, assembled by Mr. O'Connell, were of the most threatening character. At Mullingar, upwards of 100,000 people were collected to listen to inflammatory speeches from the liberator.[2] On the hill of Tara, where the rebels had been defeated in 1798, 250,000 people were said to have assembled[3] for

Renewal of repeal agitation in 1840.

May 14th, 1843.

Aug. 15th, 1843.

[1] Ann. Reg., 1831, ch. x.; Hans. Deb. (14th and 16th Feb., 1831), 3d Ser., ii. 490, 609.

[2] Ann. Reg., 1843, p. 228, 231.

[3] Ann. Reg., 1843, p. 231. Some said even a million; Speech of Attorney-General, *ibid.*, 1844, p. 310.

the same purpose. These meetings, by their numbers and organization, and by the order and discipline with which they were assembled and marshalled, assumed the form of military demonstrations. Menace and intimidation were plainly their object, — not political discussion. The language of the liberator and his friends was designed to alienate the minds of the people from the English government and nation. Englishmen were designated as "Saxons:" their laws and rulers were denounced: Irishmen who submitted to the yoke, were slaves and cowards. Justice was to be sought in arbitration courts, appointed by themselves, and not in the constituted tribunals. To give battle to the English, was no uncommon theme of repeal oratory. "If he had to go to battle," said O'Connell, at Roscommon, "he should have the strong and steady tee-totallers with him: the tee-total bands would play before them, and animate them in the time of peril: their wives and daughters, thanking God for their sobriety, would be praying for their safety; and he told them there was not an army in the world that he would not fight, with his tee-totallers. Yes, tee-totalism was the first sure ground on which rested their hope of sweeping away Saxon domination, and giving Ireland to the Irish."[1] This was not constitutional agitation, but disaffection and revolt. At length, a monster meeting having been announced to take place at Clontarf, near Dublin, the government issued a proclamation[2] to prevent it; and by necessary military precautions, effectually arrested the dangerous demonstration. The exertions of the government were seconded by Mr. O'Connell himself, who issued a no-

Aug. 20th, 1843.

Oct. 8th, 1843.

[1] Ann. Reg., 1843, p. 234; *Ibid.*, 1844, p. 335, *et seq.* Trial of Mr O'Connell; summing up of chief justice, &c.

[2] The proclamation stated "that the motives and objects of the persons to be assembled thereat, are not the fair legal exercise of constitutional rights and privileges, but to bring into hatred and contempt the government and constitution of the United Kingdom, as by law established, and to accomplish alterations in the laws and constitution of the realm, by intimidation, and the demonstration of physical force."

tice abandoning the meeting, and used all his influence to prevent the assembling of the repealers.

This immediate danger having been averted, the government resolved to bring Mr. O'Connell and his confederates to justice, for their defiance of the law; and on the 14th of October, Mr. O'Connell, his son, and eight of his friends were arrested and held to bail on charges of conspiracy, sedition, and the unlawful assembling of large numbers of persons for the purpose of obtaining a repeal of the Union by intimidation and the exhibition of physical force.[1] From this moment Mr. O'Connell moderated his language, abjured the use of the irritating term of "Saxon," exhorted his followers to tranquillity and submission; and gave tokens of his readiness even to abandon the cause of repeal itself.[2] At length the trial was commenced; but, at the outset, a painful incident, due to the peculiar condition of Ireland, deprived it of much of its moral weight, and raised imputations of unfairness. The old feud between Catholic and Protestant was the foundation of the repeal movement: it embittered every political struggle; and notoriously interfered with the administration of justice. Neither party expected justice from the other. And in this trial, eleven Catholics having been challenged by the crown, the jury was composed exclusively of Protestants. The leader of the Catholic party, the man who had triumphed over Protestant ascendency, was to be tried by his foes.[3] After a trial of twenty-five days, in which the proceedings of the agitators were fully disclosed, Mr. O'Connell was found guilty upon all, or parts of all, the counts of the indictment; and the other defendants (except Father Tierney) on nearly all. Mr. O'Connell was sentenced to a year's imprisonment, to pay a fine of 2000*l.*, and to give

Trial of Mr. O'Connell and the repeal leaders.

Nov. 2d, 1843.

Trial commenced, Jan. 15th, 1844.

May 30th, 1844.

[1] Ann. Reg., 1843, p. 237.
[2] *Ibid.*, p. 238.
[3] Hans. Deb., 3d Ser., lxxiii. 435; lxxvi. 1956, &c.

security for good behavior for seven years. The other defendants were sentenced to somewhat lighter punishments; and Mr. Tierney was not called up for judgment.

The writ of error.

Mr. O'Connell was now old, and in prison. Who can wonder that he met with compassion and sympathy? His friends complained that he had been unfairly tried; and the lawfulness of his conviction was immediately questioned by a writ of error. Many who condemned the dangerous excesses of the repeal agitation, remembered his former services to his country, his towering genius, and rare endowments; and grieved that such a man should be laid low. After four months' imprisonment, however, the judgment of the court below was reversed by the House of Lords, on the writ of error, and the repealers were once more at liberty. The liberator was borne from his prison, in triumph, through the streets of Dublin. He was received with tumultuous applause at meetings, where he still promised a repeal of the Union: his rent continued to be collected: but the agitation no longer threatened danger to the state. Even the miscarriage of the prosecution favored the cause of order. If one who had defied the government of England could yet rely upon the impartial equity of its highest court, where was the injustice of the hated Saxon? And having escaped by technical errors in the indictment, and not by any shortcomings of the law itself, O'Connell was sensible that he could not again venture to transgress the bounds of lawful agitation.

Failure of the repeal agitation.

Conclusion of repeal agitation, 1848.

Mr. Smith O'Brien.

Henceforth the cause of repeal gradually languished and died out. Having no support but factious violence, working upon general discontent and many social maladies, it might indeed have led to tumults, bloodshed, and civil war, — but never to the coercion of the government and legislature of England. Revived a few years later by Mr. Smith O'Brien, it again perished in an abortive and ridiculous insurrection.[1]

[1] Ann. Reg., 1848, p. 95; Chron., p. 95.

During the repeal agitation in Ireland, other combinations, in both countries, were not without peril to the peace of society. In Ireland, Catholics and Protestants had long been opposed, like two hostile races;[1] and while the former had been struggling to throw off their civil disabilities, to lessen the burden of tithes, to humble the Protestant Church, to enlarge their own influence, and lastly, to secure an absolute domination by casting off the Protestant legislature of the United Kingdom, — the latter had combined, with not less earnestness, to maintain that Protestant ascendency, which was assailed and endangered. So far back as 1795, Orange societies had been established in Ireland, and particularly in the north, where the population was chiefly Protestant. Early in the present century they were extended to England, and an active correspondence was maintained between the societies of the two kingdoms. As the agitation of the Catholics increased, the confederation expanded. Checked, for a time, in Ireland, together with the Catholic Association, by the Act of 1825, it assumed, in 1828, the imposing character of a national institution. The Duke of Cumberland was inaugurated, in London, as grand master: commissions and warrants were made out under the great seal of the order: office-bearers were designated, in the language of royalty, as "trusty and well-beloved:" large subscriptions were collected; and lodges founded in every part of the empire, whence delegates were sent to the grand lodge. Peers, members of the House of Commons, country gentlemen, magistrates, clergy, and officers in the army and navy, were the patrons and promoters of this organization. The members were exclusively Protestants: they were admitted with a religious ceremony, and taught secret signs and pass-words.[2] In the following year, all the hopes of Orangemen were suddenly dashed, and the objects of the institution frustrated, by the surrender of the Protestant cita-

Orange lodges.

[1] *Infra*, Chap. XVI. (Ireland).

[2] Commons' Report, 1835, p. vi.–x.

del by the ministers of the crown. Hitherto their loyalty had scarcely been exceeded by their Protestant zeal; but now the violence and folly of some of their most active, but least discreet members, brought imputations even upon their fidelity to the crown. Such men were possessed of the most extravagant illusions. It was pretended that the Duke of Wellington was preparing to seize upon the crown, as military dictator; and idle plots were even fomented to set aside the succession of the Duke of Clarence, as insane, and the prospective claims of the infant Princess Victoria, as a female and a minor, in order that the Duke of Cumberland might reign, as a Protestant monarch, over a Protestant people.[1] Treason lurked amid their follies. Meanwhile, the organization was extended until it numbered 1500 lodges comprising 220,000 Orangemen in Ireland; and 381 lodges in Great Britain, with 140,000 members. There were thirty Orange lodges in the army at home, and many others in the colonies,[2] which had been held without the knowledge of the commanding officers of regiments.

Parliamentary inquiries, 1835.

Secret as were the proceedings of the Grand Orange Society, the processions of its lodges in Ireland, and its extensive ramifications elsewhere, could not fail to arouse suspicion and alarm; and at length, in 1835, the magnitude and dangerous character of the organization were fully exposed by a committee of the House of Commons. It was shown to provoke animosities, to interfere with the administration of justice, and to endanger the discipline of the army.[3] Mr. Hume urged the necessity of prompt measures for suppressing Orange and other secret associations in the army; and so fully was the case established, that the House concurred in an address to the king, praying him to suppress political

Orange lodges in the army condemned, 1835.

[1] Hans. Deb., xxxi. 797, 807: Ann. Reg., 1836, p. 11.

[2] Commons' Report, 1835, xi.–xv., xxvii.; Ann. Reg., 1835, chap. xii. Martineau's History, ii. 266–275.

[3] Report p. xvii.

societies in the army,[1] and calling attention to the conduct of the Duke of Cumberland. His Majesty promised his ready compliance.[2] The most indefensible part of the organization was now condemned. Early in the ensuing session, the disclosures of the committee being then complete, another address was unanimously agreed to, praying the king to take measures for the effectual discouragement of Orange lodges, and generally of all political societies, excluding persons of different religions, and using secret signs and symbols, and acting by means of associated branches. Again the king assured the House of his compliance.[3] His Majesty's answer having been communicated to the Duke of Cumberland by the Home Secretary, his Royal Highness announced that he had already recommended the dissolution of Orange societies in Ireland, and would take measures to dissolve them in England.[4]

Address against Orange lodges, Feb. 23d, 1836.

Other societies have endeavored to advance their cause by public discussions, and appeals to their numbers and resolution. The Orange Association labored secretly to augment its numbers, and stimulate the ardor of its associates, by private intercourse and correspondence. Publicity is the very life of constitutional agitation; but secrecy and covert action distinguished this anomalous institution. Such peculiarities raised suspicions that men who shrank from appealing to public opinion, meditated a resort to force. It was too late to repel Catholic aggression and democracy by argument; but might they not, even yet, be resisted by the sword?[5] That such designs were entertained by the leading Orangemen, few but their most rancorous enemies affected to believe; but it was plain that a prince of

Peculiarity of Orange societies.

[1] Hans Deb., 3d Ser., xxx. 58, 95, 266; Ann. Reg., 1835, chap. xii.; Comm. Journ., xc. 533.

[2] *Ibid.*, 552.

[3] Hans. Deb., 3d Ser, xxxi. 779, 870.

[4] Ann. Reg., 1836, p. 19.

[5] See Letters of Col. Fairman, Report of Committee, 1835, Nr. 605, p xvi.

the blood and the proudest nobles, — inflamed by political discontents, and associated with reckless and foolish men, — might become not less dangerous to the state, than the most vulgar tribunes of the people.

Anti-Slavery Association.

Such were the failures of two great combinations, respectively representing the Catholics and Protestants of Ireland, and their ancient feuds. While they were in dangerous conflict, another movement — essentially differing from these in the sentiments from which it sprang, and the means by which it was forwarded — was brought to a successful issue. In 1833, the generous labors of the Anti-Slavery Association were consummated. The venerable leaders of the movement which had condemned the slave-trade,[1] together with Mr. Fowell Buxton, and other younger associates, had revived the same agency, for attaining the abolition of slavery itself. Again were the moral and religious feelings of the people successfully appealed to : again did the press, the pulpit, the platform, — petitions, addresses, and debates, — stimulate and instruct the people. Again was public opinion persuaded and convinced ; and again a noble cause was won, without violence, menace, or dictation.[2]

Trades' unions, 1834.

Let us now turn to other combinations of this period, formed by working men alone, with scarcely a leader from another class. In 1834, the trades' unions which had hitherto restricted their action to matters affecting the interests of operatives and their employers, were suddenly impelled to a strong political demonstration.

The Dorchester laborers.

Six laborers had been tried at Dorchester for administering unlawful oaths, and were sentenced to transportation.[3] The unionists were persuaded that these

1 *Supra*, p. 133.

2 Life of Wilberforce, v. 122-127, 163-171, &c.; Life of Sir Fowell Buxton, 125, 256, 311, &c.; Ann. Reg., 1833, ch. vii.

3 Courts and Cabinets of Will. IV., &c., ii. 82. The Duke of Buckingham says that two out of the six "Dorchester laborers" were dissenting ministers.

men had been punished as an example to themselves: they had administered similar oaths, and were amenable to the same terrible law. Their leaders, therefore, resolved to demand the recall of the Dorchester laborers; and to support their representations by an exhibition of physical force. A petition to the king was accordingly prepared; and a meeting of trades' unions was summoned to assemble at Copenhagen Fields on the 21st of April, and escort a deputation, by whom it was to be presented, to the Home Office. About 30,000 men assembled on that day, marshalled in their several unions, and bearing emblems of their several trades. After the meeting, they formed a procession and marched, in orderly array, past Whitehall, to Kennington Common, while the deputation was left to its mission, at the Home Office. The leaders hoped to overawe the government by their numbers and union; but were quickly undeceived. The deputation presented themselves at the Home Office, and solicited the interview which Lord Melbourne had appointed: but they were met by Mr. Phillips, the under-secretary, and acquainted that Lord Melbourne could not receive the petition presented in such a manner, nor admit them to his presence, attended, as they were, by 30,000 men. They retired, humbled and crestfallen, and half afraid to announce their discomfiture at Kennington: they had failed in their mission, by reason of the very demonstration upon which they had rested their hopes of success.

Procession of trades' unions, April 21st, 1834.

Meanwhile the procession passed onwards, without disturbance. The people gazed upon them as they passed, with mingled feelings of interest and pity, but with little apprehension. The streets were quiet: there were no signs of preparation to quell disorder: not a soldier was to be seen: even the police were in the background. Yet, during the previous night, the metropolis had been prepared as for a siege. The streets were commanded by unseen artillery: the barracks and public offices were filled with soldiers under

arms: large numbers of police and special constables were close at hand. Riot and outrage could have been crushed at a blow; but neither sight nor sound was there, to betray distrust of the people, or provoke them to a collision with authority. To a government thus prepared, numbers were no menace: they were peaceable, and were unmolested. The vast assemblage dispersed; and a few days afterwards, a deputation, with the petition, was courteously received by Lord Melbourne.[1] It was a noble example of moderation and firmness on the part of the executive, — worthy of imitation in all times.

The Chartists, 1837–1848.

Soon after these events, a wider combination of working men was commenced, — the history of which is pregnant with political instruction. The origin of Chartism was due to distress and social discontents, rather than to political causes. Operatives were jealous of their employers, and discontented with their wages, and the high price of food; and between 1835 and 1839, many were working short time in the factories, or were wholly out of employment. The recent introduction of the new poor law was also represented as an aggravation of their wrongs. Their discontents were fomented, but their distresses not alleviated, by trades' unions.

Torch-light meetings.

In 1838 they held vast torch-light meetings throughout Lancashire. They were addressed in language of frantic violence: they were known to be collecting arms: factories were burned: tumults and insurrection were threatened. In November, the government desired the magistrates to give notice of the illegality of such meetings, and of their intention to prevent them; and in December, a proclamation was issued for that purpose.[2]

Nov. 22d, 1838.

Hitherto the Chartists had been little better than the Luddites of a former period. Whatever their political objects,

[1] Ann. Reg., 1839, Chron. p. 58; Courts and Cabinets of Wil. IV., ii. 82.

[2] Ann. Reg., 1839, p. 304; Carlyle's Tract on Chartism.

they were obscured by turbulence and a wild spirit of discontent, — to which hatred of capitalists seemed to be the chief incitement. But in 1838, the "People's Charter" was agreed upon; and a national petition read at numerous meetings, in support of it.[1] Early in 1839, a national convention of delegates from the working classes was established in London, whose views were explained in the monster national petition, signed by 1,280,000 persons, and presented to the House of Commons on the 14th of June.[2] It prayed for universal suffrage, vote by ballot, annual parliaments, the payment of members, and the abolition of their property qualification, — such being the five points of the people's charter. The members of the convention deprecated appeals to physical force; and separated themselves, as far as possible, from those turbulent Chartists who had preached, and sometimes even practised, a different doctrine. The petition was discussed with temper and moderation; but certainly with no signs of submission to the numbers and organization of the petitioners.[3]

The National Petition, 1839.

While the political section of Chartists were appealing to Parliament for democratic reform, their lawless associates, in the country, were making the name of Chartists hateful to all classes of society. There were Chartist riots at Birmingham, at Sheffield, at Newcastle. contributions were extorted from house to house by threats and violence: the services of the church were invaded by the intrusion of large bodies of Chartists. At some of their meetings, the proceedings bore a remarkable resemblance to those of 1819. At a great meeting at Kersal Moor, near Manchester, there were several female associations; and in imitation of the election of legislatorial attorneys, Chartists were desired to attend every election; when the members

Chartist riots and turbulence.

[1] Ann. Reg., 1838, Chron. p. 120.

[2] Hans. Deb., 3d Ser., xlviii. 222; Ann. Reg., 1839, p. 304.

[3] June 14th, July 12th, Hans. Deb., 3d Ser., xlviii. 222, xlix. 220. A motion for referring it to a committee was negatived by a majority of 189 — Ayes, 46; Noes, 235.

returned by show of hands, being the true representatives of the people, would meet in London at a time to be appointed.

Riot at Newport.

Thousands of armed men attacked the town of Newport; but were repulsed with loss by the spirit of Mr. Phillipps, the mayor, and his brother magistrates, and the well-directed fire of a small file of troops. Three of their leaders, Frost, Williams, and Jones, were tried and transported for their share in this rebellious outrage.[1] Such excesses were clearly due to social disorganization among the operatives, to be met by commercial and social remedies, — rather than to political discontents, to be cured by constitutional changes: but being associated with political agitation, they disgraced a cause which, — even if unstained by crimes and outrage, — would have been utterly hopeless.

Weakness of working classes alone, in agitation.

The Chartists occupied the position of the democrats and radical reformers of 1793, 1817, and 1819. Prior to 1830, reformers among the working classes had always demanded universal suffrage and annual parliaments. No scheme less comprehensive embraced their own claims to a share in the government of the country. But measures so democratic having been repudiated by the Whig party and the middle classes, the cause of reform had languished.[2] In 1830 the working classes, powerless alone, had formed an alliance with the reform party and the middle classes; and, waiving their own claims, had contributed to the passing of a measure which enfranchised every class but themselves.[3] Now they were again alone, in their agitation. Their numbers were greater, their knowledge advanced, and their organization more extended: but their hopes of forcing democracy upon Parliament were not less desperate. Their predecessors in the cause had been met by repression and coercion. Free from such restraints, the Chartists had to encounter the moral force of public

[1] Ann. Reg., 1839, p. 303; Chron. 73, 132–164.
[2] *Supra*, Vol. I. 322; Vol. II. 195.
[3] *Supra*, p. 217.

opinion, and the strength of a Parliament resting upon a wider basis of representation, and popular confidence.

This agitation, however hopeless, was continued for several years; and in 1848, the Revolution in France inspired the Chartists with new life. Relying upon the public excitement and their own numbers, they now hoped to extort from the fears of Parliament, what they had failed to obtain from its sympathies. A meeting was accordingly summoned to assemble on the 10th of April, at Kennington Common, and carry a Chartist petition, pretending to bear the signatures of 5,000,000 persons, to the very doors of the House of Commons. The Chartist leaders seemed to have forgotten the discomfiture of the trades' unions in 1835; but the government, profiting by the experience of that memorable occasion, prepared to protect Parliament from intimidation, and the public peace from disturbance. Chartist meeting of April 10th, 1848.

On the 6th, a notice was issued declaring the proposed meeting criminal and illegal, as tending to excite terror and alarm; and the intention of repairing to Parliament, on pretence of presenting a petition, with excessive numbers, unlawful, — and calling upon well-disposed persons not to attend. At the same time, it was announced that the constitutional right of meeting to petition, and of presenting the petition, would be respected.[1] Preparations of the government.

On the 10th, the bridges, the Bank, the Tower, and the neighborhood of Kennington Common, were guarded by horse, foot, and artillery. Westminster Bridge, and the streets and approaches to the Houses of Parliament and the public offices, were commanded by unseen ordnance. An overpowering military force, — vigilant, yet out of sight, — was ready for immediate action. The Houses of Parliament were filled with police; and the streets guarded by 170,000 special constables. The assembling of this latter force was the noblest example of the strength of a constitutional government, to be found in history. The main- The special constables.

[1] Ann. Reg., 1848, Chron. p. 51.

tenance of peace and order was confided to the people themselves. All classes of society vied with one another in loyalty and courage. Nobles and gentlemen of fashion, lawyers, merchants, scholars, clergymen, tradesmen, and operatives, hastened together to be sworn, and claim the privilege of bearing the constable's staff, on this day of peril. The Chartists found themselves opposed not to their rulers only, but to the vast moral and material force of English society. They might, indeed, be guilty of outrage: but intimidation was beyond their power.

Failure of the meeting.

The Chartists, proceeding from various parts of the town, at length assembled at Kennington Common. A body of 150,000 men had been expected: not more than 25,000 attended, — to whom may be added about 10,000 spectators, attracted by curiosity. Mr. Feargus O'Connor, their leader, being summoned to confer with Mr. Mayne, the Police Commissioner, was informed that the meeting would not be interfered with, if Mr. O'Connor would engage for its peaceable character: but that the procession to Westminster would be prevented by force. The disconcerted Chartists found all their proceedings a mockery. The meeting, having been assembled for the sake of the procession, was now without an object, and soon broke up in confusion. To attempt a procession was wholly out of the question. The Chartists were on the wrong side of the river, and completely entrapped. Even the departing crowds were intercepted and dispersed on their arrival at the bridges, so as to prevent a dangerous reunion on the other side. Torrents of rain opportunely completed their dispersion; and in the afternoon, the streets were deserted. Not a trace was left of the recent excitement.[1]

Signatures to the petition.

Discomfiture pursued this petition, even into the House of Commons. It was numerously signed, beyond all example; but Mr. O'Connor, in presenting it, stated that it bore 5,706,000 signatures. A few

[1] Ann. Reg., 1848, Chron. p. 50; Newspapers, 9th, 10th, and 11th April, 1848. Personal observation

days afterwards, the real number was ascertained to be 1,900,000, — of which many were in the same handwriting, and others fictitious, jocose, and impertinent. The vast numbers who had signed this petition, earnestly and in good faith, entitled it to respect; but the exaggeration, levity, and carelessness of its promoters brought upon it discredit and ridicule.[1] The failure of the Chartist agitation was another example of the hopelessness of a cause not supported by a parliamentary party, by enlightened opinion, and by the co-operation of several classes of society.

The last political agitation which remains to be described, was essentially different in its objects, incidents, character, and result. The "Anti-Corn-Law League" affords the most remarkable example in our history, of a great cause won against powerful interests and prejudice, by the overpowering force of reason and public opinion. When the League was formed in 1838, both Houses of Parliament, the first statesmen of all parties, and the landlords and farmers throughout the country, firmly upheld the protective duties upon corn; while merchants, manufacturers, traders, and the inhabitants of towns, were generally indifferent to the cause of free trade. The parliamentary advocates of free trade in corn, led by Mr. Poulett Thomson and Mr. Charles Villiers, had already exhausted the resources of political science, in support and illustration of this measure. Their party was respectable in numbers, in talent, and political influence; and was slowly gathering strength. It was supported, in the country, by many political philosophers,— by thoughtful writers in the press; and by a few far-seeing merchants and manufacturers: but the impulse of a popular movement, and public conviction, was wanting. This it became the mission of the Anti-Corn-Law League to create.

Anti-Corn-Law League.

This association at once seized upon all the means by

[1] The Queen, the Duke of Wellington, Sir R. Peel, and others were represented as having signed it several times. — Hans. Deb., 3d Ser., xcviii., 235; Report of Public Petitions Committee.

which, in a free country, public opinion may be acted upon.

Its organization.

Free-trade newspapers, pamphlets, and tracts were circulated with extraordinary industry and perseverance. The leaders of the League, and, above all, Mr. Cobden, addressed meetings, in every part of the country, in language calculated at once to instruct the public mind in the true principles of free trade, and to impress upon the people the vital importance of those principles to the interests of the whole community. Delegates from all parts of England were assembled at Westminster,[1] Manchester, and elsewhere, who conferred with ministers and members of Parliament.[2] In 1842 they numbered nearly 1600.[3] In London, Drury Lane, and Covent Garden, theatres were borrowed from the drama, and converted into arenas for political discussion, where crowded audiences listened with earnest, and often passionate, attention, to the stirring oratory of the corn-law repealers. In country towns, these intrepid advocates even undertook to convert farmers to the doctrines of free trade; and were ready to break a lance with all comers, in the town-hall or corn-exchange. The whole country was awakened by the masterly logic and illustration of Mr. Cobden, and the vigorous eloquence of Mr. Bright. Religion was pressed into the service of this wide-spread agitation. Conferences of ministers were held at Manchester, Carnarvon, and Edinburgh, where the corn-laws were denounced as sinful restraints upon the bounty of the Almighty; and the clergy of all denominations were exhorted to use the persuasions of the pulpit, and every influence of their sacred calling, in the cause.[4] Even the sympathies of the fair sex were enlisted in the agitation, by the gayeties and excitement of free-trade bazaars.[5] Large subscriptions were collected, which enabled the League to support a numerous

[1] Prentice, i. 101, 107, 125.
[2] *Ibid.*, 150, 200.
[3] *Ibid.*, 306.
[4] *Ibid.*, i. 234, 252, 290.
[5] Prentice's History of the Corn-Law League, i. 296.

staff of agents, who everywhere collected and disseminated information upon the operation of the corn laws, and encouraged the preparation of petitions.

By these means public opinion was rapidly instructed, and won over to the cause of free trade in corn. But Parliament and the constituencies were still to be overcome. Parliament was addressed in petitions from nearly every parish; and nothing was left undone, that debates and divisions could accomplish within its walls. The constituencies were appealed to, at every election, on behalf of free-trade candidates; the registration was diligently watched; and no pains 1844.
was spared to add free-trade voters to the register. Nor did the League stop here; but finding that, with all their efforts, the constituencies were still opposed to them, they resorted to an extensive creation of votes by means of 40*s.* freeholds, purchased by the working classes.[1]

Never had political organization been so complete. The circumstances of the time favored its efforts; and in Its success
1846, the protective corn law — with which the most powerful interests in the state were connected — was unconditionally and forever abandoned. There had been great pressure from without, but no turbulence. Strong feelings had been aroused in the exciting struggle: landlords had been denounced: class exasperated against class: Parliament approached in a spirit of dictation. Impetuous orators, heated in the cause, had breathed words of fire: promises of cheap bread to hungry men, and complaints that it was denied them, were full of peril: but this vast disorganization was never discredited by acts of violence or lawlessness. The leaders had triumphed in a great popular cause, without the least taint of sedition.

This movement had enjoyed every condition of success. The cause itself appealed alike to the reason and judgment Causes of
of thinking men, and to the interests and passions of success.

[1] *Ibid.*, *passim*, and particularly i. 64, 90, 126, 137. 225, 410; ii. 168, 236 &c.; M. Bastiat, Cobden et la Ligue; Ann. Reg., 1843, 1844.

the multitude: it had the essential basis of parliamentary support; and it united, for a common object, the employers of labor and the working classes. The latter condition mainly insured its success. Manufacturers foresaw, in free trade, an indefinite extension of the productive energies of the country: operatives hoped for cheap bread, higher wages, and more constant employment. These two classes, while suffering from the commercial stagnation of past years, had been estranged and hostile. Trades' unions and Chartism had widened the breach between them; but they now worked heartily together, in advancing a measure which promised advantage to them all.

The history of the League yet furnishes another lesson. It was permitted to survive its triumph; and such is the love of freedom which animates Englishmen, that no sooner had its mission been accomplished, than men who had labored with it, became jealous of its power and dreaded its dictation. Its influence rapidly declined; and at length it became unpopular, even in its own strongholds.

The corn-law league after 1846.

In reviewing the history of political agitation, we cannot be blind to the perils which have sometimes threatened the state. We have observed fierce antagonism between the people and their rulers, — evil passions and turbulence, — class divided against class, — associations overbearing the councils of Parliament, — and large bodies of subjects exalting themselves into the very seat of government. Such have been the storms of the political atmosphere, which, in a free state, alternate with the calms and light breezes of public opinion; and statesmen have learned to calculate their force and direction. There have been fears and dangers; but popular discontents have been dissipated, wrongs have been redressed and public liberties established, without revolution; while popular violence and intimidation have been overborne by the combined force of government and society. And what have been the results of agitation upon the legis-

Review of political agitation.

lation of the country? Not a measure has been forced upon Parliament, which the calm judgment of a later time has not since approved; not an agitation has failed, which posterity has not condemned. The abolition of the slave-trade and slavery, Catholic emancipation, parliamentary reform, and the repeal of the corn laws, were the fruits of successful agitation; — the repeal of the Union, and Chartism, conspicuous examples of failure.

But it may be asked, is agitation to be the normal condition of the state? Are the people to be ever combining, and the government now resisting, and now yielding to, their pressure? Is constitutional government to be worked with this perpetual wear and tear, — this straining and wrenching of its very framework? We fervently hope not. The struggles we have narrated marked the transition from old to new principles of government, — from exclusion, repression, and distrust, to comprehension, sympathy, and confidence. Parliament, yielding slowly to the expansive energies of society, was stirred and shaken by their upheavings. But with a free and instructed press, a wider representation, and a Parliament enjoying the general confidence of the people, — agitation has nearly lost its fulcrum. Should Parliament, however, oppose itself to the progressive impulses of another generation, let it study well the history of the past; and discern the signs of a pressure from without, which may not wisely be resisted. Let it reflect upon the wise maxim of Macaulay: "The true secret of the power of agitators is the obstinacy of rulers; and liberal governments make a moderate people."[1]

Altered relations of government to the people.

The development of free institutions, and the entire recognition of liberty of opinion, have wrought an essential change in the relations of the government and the people. Mutual confidence has succeeded to mutual distrust. They act in concert, instead of opposition; and share with one another the cares

[1] Speech on Reform Bill, 5th July, 1831; Hans. Deb., 3d Ser., iv. 118.

and responsibility of state affairs. If the power and independence of ministers are sometimes impaired by the necessity of admitting the whole people to their councils, — their position is more often fortified by public approbation. Free discussion aids them in all their deliberations: the first intellects of the country counsel them: the good sense of the people strengthens their convictions. If they judge rightly, they may rely with confidence on public opinion; and even if they err, so prompt is popular criticism, that they may yet have time to repair their error. The people having advanced in enlightenment as well as in freedom, their judgment has become more discriminating, and less capricious, than in former times. To wise rulers, therefore, government has become less difficult. It has been their aim to satisfy the enlightened judgment of the whole community, freely expressed and readily interpreted. To read it rightly, — to cherish sentiments in advance of it, rather than to halt and falter behind it, — has become the first office of a successful statesman.

Concurrent increase of power and intelligence in the people.

What theory of a free state can transcend this gradual development of freedom, — in which the power of the people has increased with their capacity for self-government? It is this remarkable condition that has distinguished English freedom from democracy. Public opinion is expressed, not by the clamorous chorus of the multitude, but by the measured voices of all classes, parties, and interests. It is declared by the press, the exchange, the market, the club, and society at large. It is subject to as many checks and balances as the constitution itself; and represents the national intelligence, rather than the popular will.

CHAPTER XI.

Liberty of the Subject secured before Political Privileges: — General Warrants: — Suspension of Habeas Corpus Act: — Impressment: — Revenue Laws as affecting Civil Liberty: — Commitments for Contempt: — Arrests and Imprisonment for Debt: — Last Relics of Slavery: — Spies and Informers: — Opening Letters: — Protection of Foreigners: — Extradition Treaties.

During the last hundred years, every institution has been popularized, — every public liberty extended. Long before this period, however, Englishmen had enjoyed personal liberty as their birthright. More prized than any other civil right, and more jealously guarded, — it had been secured earlier than those political privileges, of which we have been tracing the development. The franchises of Magna Charta had been firmly established, in the seventeenth century. The Star Chamber had fallen: the power of arbitrary imprisonment had been wrested from the crown and privy council: liberty had been guarded by the Habeas Corpus Act: judges redeemed from dependence and corruption; and juries from intimidation and servile compliance. The landmarks of civil liberty were fixed: but relics of old abuses were yet to be swept away, and traditions of times less favorable to freedom to be forgotten. Much remained to be done for the consolidation of rights already recognized; and we may trace progress, not less remarkable than that which has characterized the history of our political liberties.

Liberty of the subject assured earlier than political privileges.

Among the remnants of a jurisprudence which had favored prerogative at the expense of liberty, was that of the arrest of persons under general warrants,

General warrants, 1763.

without previous evidence of their guilt or identification of their persons. This practice survived the Revolution, and was continued without question, on the ground of usage, until the reign of George III., when it received its death-blow from the boldness of Wilkes and the wisdom of Lord Camden. This question was brought to an issue by No. 45 of the "North Briton," already so often mentioned. There was the libel, but who was the libeller? Ministers knew not, nor waited to inquire, after the accustomed forms of law: but forthwith Lord Halifax, one of the secretaries of state, issued a warrant, directing four messengers, taking with them a constable, to search for the authors, printers, and publishers; and to apprehend and seize them, together with their papers, and bring them in safe custody before him. No one having been charged or even suspected, — no evidence of crime having been offered, — no one was named in this dread instrument. The offence only was pointed at, — not the offender. The magistrate, who should have sought proofs of crime, deputed this office to his messengers. Armed with their roving commission, they set forth in quest of unknown offenders; and unable to take evidence, listened to rumors, idle tales, and curious guesses. They held in their hands the liberty of every man whom they were pleased to suspect. Nor were they triflers in their work. In three days, they arrested no less than forty-nine persons on suspicion, — many as innocent as Lord Halifax himself. Among the number was Dryden Leach, a printer, whom they took from his bed at night. They seized his papers; and even apprehended his journeymen and servants. He had printed one number of the "North Briton," and was then reprinting some other numbers; but as he happened not to have printed No. 45, he was released, without being brought before Lord Halifax. They succeeded, however, in arresting Kearsley the publisher, and Balfe the printer, of the obnoxious number, with all their workmen. From them it was discovered that Wilkes was the culprit of whom they were in search: but

the evidence was not on oath; and the messengers received verbal directions to apprehend Wilkes, under the general warrant. Wilkes, far keener than the crown lawyers, not seeing his own name there, declared it "a ridiculous warrant against the whole English nation," and refused to obey it. But after being in custody of the messengers for some hours, in his own house, he was taken away in a chair, to appear before the secretaries of state. No sooner had he been removed, than the messengers, returning to his house, proceeded to ransack his drawers; and carried off all his private papers, including even his will and pocket-book. When brought into the presence of Lord Halifax and Lord Egremont, questions were put to Wilkes, which he refused to answer: whereupon he was committed, close prisoner, to the Tower, denied the use of pen and paper, and interdicted from receiving the visits of his friends or even of his professional advisers. From this imprisonment, however, he was shortly released on a writ of *habeas corpus*, by reason of his privilege as a member of the House of Commons.[1]

Arrest of Wilkes.

April 30th, 1763.

May 2d, 1763.

Wilkes and the printers, supported by Lord Temple's liberality, soon questioned the legality of the general warrant. First, several journeymen printers brought actions against the messengers. On the first trial, Lord Chief Justice Pratt, — not allowing bad precedents to set aside the sound principles of English law, — held that the general warrant was illegal; that it was illegally executed; and that the messengers were not indemnified by statute. The journeymen recovered 300*l.* damages; and the other plaintiffs also obtained verdicts. In all these cases, however, bills of exceptions were tendered and allowed.

Actions against the messengers, July 6th, 1763.

Mr. Wilkes himself brought an action against Mr. Wood, under-secretary of state, who had personally superintended the execution of the warrant. At this trial it was proved that Mr. Wood and the mes-

Wilkes' action against Wood, Dec 6th, 1763.

[1] Almon's Corr. of Wilkes, i. 96–124; iii. 196–210, &c.

sengers, after Wilkes' removal in custody, had taken entire possession of his house, refusing admission to his friends; had sent for a blacksmith, who opened the drawers of his bureau; and having taken out the papers, had carried them away in a sack, without taking any list or inventory. All his private manuscripts were seized, and his pocketbook filled up the mouth of the sack.[1] Lord Halifax was examined, and admitted that the warrant had been made out, three days before he had received evidence that Wilkes was the author of the "North Briton." Lord Chief Justice Pratt thus spoke of the warrant: — "The defendant claimed a right, under precedents, to force persons' houses, break open escritoires, and seize their papers, upon a general warrant, where no inventory is made of the things thus taken away, and where no offenders' names are specified in the warrant, and therefore a discretionary power given to messengers to search wherever their suspicions may chance to fall. If such a power is truly invested in a secretary of state, and he can delegate this power, it certainly may affect the person and property of every man in this kingdom, and is totally subversive of the liberty of the subject." The jury found a verdict for the plaintiff, with 1000*l.* damages.[2]

Four days after, Wilkes had obtained his verdict against Mr. Wood, Dryden Leach, the printer, gained another verdict, with 400*l.* damages, against the messengers. A bill of exceptions, however, was tendered and received in this, as in other cases, and came on for hearing before the Court of King's Bench, in 1765. After much argument, and the citing of precedents showing the practice of the secretary of state's office ever since the Revolution, Lord Mansfield pronounced the warrant illegal, saying, "It is not fit that the judging of the information should be left to the discretion of the officer. The magistrate should judge and give certain directions to the officer." The

Leach *v.* Money, Dec. 10th, 1763.

[1] So stated by Lord Camden in Entinck *v.* Carrington.

[2] Lofft's Reports, St. Tr., xix. 1153.

other three judges agreed that the warrant was illegal and bad, believing that "no degree of antiquity can give sanction to an usage bad in itself."[1] The judgment was therefore affirmed.

Wilkes had also brought actions for false imprisonment against both the secretaries of state. Lord Egremont's death put an end to the action against him; and Lord Halifax, by pleading privilege, and interposing other delays unworthy of his position and character, contrived to put off his appearance until after Wilkes had been outlawed, — when he appeared and pleaded the outlawry. But at length, in 1769, no further postponement could be contrived, — the action was tried, and Wilkes obtained no less than 4000*l.* damages.[2] Not only in this action, but throughout the proceedings in which persons aggrieved by the general warrant had sought redress, the government offered an obstinate and vexatious resistance. The defendants were harassed by every obstacle which the law permitted, and subjected to ruinous costs.[3] The expenses which government itself incurred in these various actions were said to have amounted to 100,000*l.*[4]

Wilkes and Lord Halifax.

The liberty of the subject was further assured, at this period, by another remarkable judgment of Lord Camden. In November, 1762, the Earl of Halifax, as secretary of state, had issued a warrant directing certain messengers, taking a constable to their assistance, to search for John Entinck, Clerk, the author, or one concerned in the writing, of several numbers of the

Search warrant for papers: Entinck *v.* Carrington, 1765.

[1] Burrow's Rep., iii. 1742; St. Tr., xix. 1001; Sir W. Blackstone's Rep., 555.

[2] Wilson's Rep., ii. 256; Almon's Correspondence of Wilkes, iv. 13; Adolph. Hist., i. 136, *n.*; St. Tr., xix. 1406.

[3] On a motion for a new trial in one of these numerous cases on the ground of excessive damages, Ch. Justice Pratt said: — "They heard the king's counsel, and saw the solicitor of the treasury endeavoring to support and maintain the legality of the warrant in a tyrannical and severe manner." — *St. Tr.*, xix. 1405.

[4] Almon's Corr. of Wilkes

"Monitor, or British Freeholder," and to seize him, "together with his books and papers," and to bring them in safe custody before the secretary of state. In execution of this warrant, the messengers apprehended Mr. Entinek in his house, and seized the books and papers in his bureau, writing-desk, and drawers. This case differed from that of Wilkes, as the warrant specified the name of the person against whom it was directed. In respect of the person, it was not a general warrant; but as regards the papers, it was a general search-warrant, — not specifying any particular papers to be seized, but giving authority to the messengers to take all his books and papers, according to their discretion.

Mr. Entinck brought an action of trespass against the messengers for the seizure of his papers,[1] upon which the jury found a special verdict with 300*l.* damages. This special verdict was twice learnedly argued before the Court of Common Pleas, where at length, in 1765, Lord Camden pronounced an elaborate judgment. He even doubted the right of the secretary of state to commit persons at all, except for high treason: but in deference to prior decisions[2] the court felt bound to acknowledge the right. The main question, however, was, the legality of a search-warrant for papers. "If this point should be determined in favor of the jurisdiction," said Lord Camden, "the secret cabinets and bureaus of every subject in this kingdom will be thrown open to the search and inspection of a messenger, whenever the secretary of state shall think fit to charge, or even to suspect, a person to be the author, printer, or publisher of a seditious libel." "This power, so assumed by the secretary of state, is an execution upon all the party's papers in the first instance. His house is rifled, his most valuable papers are taken out of his possession, before the paper, for which he is charged, is found to be criminal by any competent jurisdiction, and before he is convicted either of writing, publishing,

[1] Entinck *v.* Carrington, St. Tr., xix. 1030.

[2] Queen *v.* Derby, Fort., 140, and R. *v.* Earbury, 2 Barnadist., 293, 346.

or being concerned in the paper." It had been found by the special verdict that many such warrants had been issued since the Revolution: but he wholly denied their legality. He referred the origin of the practice to the Star Chamber, which in pursuit of libels had given search-warrants to their messenger of the press, — a practice which, after the abolition of the Star Chamber, had been revived and authorized by the Licensing Act of Charles II. in the person of the secretary of state. And he conjectured that this practice had been continued after the expiration of that act, — a conjecture shared by Lord Mansfield and the Court of King's Bench.[1] With the unanimous concurrence of the other judges of his court, this eminent magistrate now finally condemned this dangerous and unconstitutional practice.

General warrants discussed in Parliament.

Meanwhile, the legality of a general warrant had been repeatedly discussed in Parliament.[2] Several motions were offered, in different forms, for declaring it unlawful. While trials were still pending, there were obvious objections to any proceeding by which the judgment of the courts would be anticipated; but in debate, such a warrant found few supporters. Those who were unwilling to condemn it by a vote of the House, had little to say in its defence. Even the attorney- and solicitor-general did not venture to pronounce it legal. But whatever their opinion, the competency of the House to decide any matter of law was contemptuously denied. Sir Fletcher Norton, the attorney-general, even went so far as to declare that "he should regard a resolution of the members of the House of Commons no more than the oaths of so many drunken porters in Covent Garden," — a sentiment as unconstitutional as it was insolent. Mr. Pitt affirmed

[1] Leach *v.* Money and others, Burrow's Rep. iii. 1692, 1767; Sir W Blackstone's Rep., 555. The same view was also adopted by Blackstone, *Comm.*, iv. 336, *n.* (Kerr's Ed., 1862).

[2] Jan. 19th, Feb. 3d, 6th, 13th, 14th, and 17th, 1764; Parl. Hist., xv 1393-1418; Jan. 29th, 1765; *Ibid.*, xvi. 6.

"that there was not a man to be found of sufficient profligacy to defend this warrant upon the principle of legality."

Resolutions of the Commons, April 22d, 1766.

In 1766, the Court of King's Bench had condemned the warrant, and the objections to a declaratory resolution were therefore removed; the Court of Common Pleas had pronounced a search-warrant for papers to be illegal; and lastly, the more liberal administration of the Marquess of Rockingham had succeeded to that of Mr. Grenville. Accordingly, resolutions were now agreed to, condemning general warrants, whether for the seizure of persons or papers, as illegal; and declaring them, if executed against a member, to be a breach of privilege.[1]

Declaratory bill, April 29th, 1766.

A bill was introduced to carry into effect these resolutions, and passed by the House of Commons: but was not agreed to by the Lords.[2] A declaratory act was, however, no longer necessary. The illegality of general warrants had been judicially determined, and the judgment of the courts confirmed by the House of Commons, and approved as well by popular opinion, as by the first statesmen of the time. The cause of public liberty had been vindicated, and was henceforth secure.

Suspension of Habeas Corpus Act.

The writ of Habeas Corpus is unquestionably the first security of civil liberty. It brings to light the cause of every imprisonment, approves its lawfulness, or liberates the prisoner. It exacts obedience from the highest courts: Parliament itself submits to its authority.[3] No right is more justly valued. It protects the subject from unfounded suspicions, from the aggressions of power, and from abuses in the administration of justice.[4] Yet this protective law, which gives every man security and confidence in times of tranquillity, has been suspended, again

[1] Parl. Hist., xvi. 209.
[2] *Ibid.*, 210.
[3] May's Law and Usage of Parliament, 76.
[4] Blackstone's Comm. (Kerr), iii. 138–147, &c.

and again, in periods of public danger or apprehension. Rarely, however, has this been suffered without jealousy hesitation, and remonstrance; and whenever the perils of the state have been held sufficient to warrant this sacrifice of personal liberty, no minister or magistrate has been suffered to tamper with the law at his discretion. Parliament alone, convinced of the exigency of each occasion, has suspended, for a time, the rights of individuals, in the interests of the state

Cases from the Revolution to 1794.

The first years after the Revolution were full of danger A dethroned king, aided by foreign enemies and a powerful body of English adherents, was threatening the new settlement of the crown with war and treason. Hence the liberties of Englishmen, so recently assured, were several times made to yield to the exigencies of the state. Again, on occasions of no less peril, — the rebellion of 1715, the Jacobite conspiracy of 1722, and the invasion of the realm by the Pretender in 1745, — the Habeas Corpus Act was suspended.[1] Henceforth, for nearly half a century, the law remained inviolate. During the American war, indeed, it had been necessary to empower the king to secure persons suspected of high treason, committed in North America or on the high seas, or of the crime of piracy;[2] but it was not until 1794 that the civil liberties of Englishmen, at home, were again to be suspended. The dangers and alarms of that dark period have already been recounted.[3] Ministers, believing the state to be threatened by traitorous conspiracies, once more sought power to countermine treason by powers beyond the law.

Habeas Corpus Suspension Act, 1794. May 16th.

Relying upon the report of a secret committee, Mr. Pitt moved for a bill to empower His Majesty to secure and detain persons suspected of conspiring against his person and government. He justified this

[1] Parl. Hist., viii. 27–39; xiii. 671. In 1745 it was stated by the solicitor general that the act had been suspended nine times since the Revolution; and in 1794 Mr. Secretary Dundas made a similar statement. — *Parl. Hist.*, xxx. 539.

[2] In 1777, act 17 Geo. III. c. 9.

[3] *Supra*, p. 152

measure on the ground, that whatever the temporary danger of placing such power in the hands of the government, it was far less than the danger with which the constitution and society were threatened. If ministers abused the power intrusted to them, they would be responsible for its abuse. It was vigorously opposed by Mr. Fox, Mr. Grey, Mr. Sheridan, and a small body of adherents. They denied the disaffection imputed to the people, ridiculed the revelations of the committee, and declared that no such dangers threatened the state, as would justify the surrender of the chief safe guard of personal freedom. This measure would give ministers absolute power over every individual in the kingdom. It would empower them to arrest, on suspicion, any man whose opinions were obnoxious to them, — the advocates of reform, even the members of the parliamentary opposition. Who would be safe, when conspiracies were everywhere suspected, and constitutional objects and language believed to be the mere cloak of sedition? Let every man charged with treason be brought to justice: in the words of Sheridan, "where there was guilt, let the broad axe fall;" but why surrender the liberties of the innocent?

Yet thirty-nine members only could be found to oppose the introduction of the bill.[1] Ministers, representing its immediate urgency, endeavored to pass it at once through all its stages. The opposition, unable to resist its progress by numbers, endeavored to arrest its passing for a time, in order to appeal to the judgment of the country: but all their efforts were vain. With free institutions, the people were now governed according to the principles of despotism. The will of their rulers was supreme, and not to be questioned. After eleven divisions, the bill was pressed forward as far as the report, on the same night; and the galleries being closed, the arguments urged against it were merely addressed to a determined and taciturn majority. On the following day, the bill was read a third time and sent up to

[1] Ayes, 201; Noes, 39.

the Lords, by whom, after some sharp debates, it was speedily passed.[1]

Grounds and character of the measure.

The strongest opponents of the measure, while denying its present necessity, admitted that when danger is imminent, the liberty of the subject must be sacrificed to the paramount interests of the state. Ringleaders must be seized, outrages anticipated, plots disconcerted, and the dark haunts of conspiracy filled with distrust and terror. And terrible indeed was the power now intrusted to the executive. Though termed a suspension of the Habeas Corpus Act, it was, in truth, a suspension of Magna Charta,[2] and of the cardinal principles of the common law. Every man had hitherto been free from imprisonment until charged with crime by information upon oath; and entitled to a speedy trial, and the judgment of his peers. But any subject could now be arrested on suspicion of treasonable practices, without specific charge or proof of guilt: his accusers were unknown; and in vain might he demand public accusation and trial. Spies and treacherous accomplices, however circumstantial in their narratives to secretaries of state and law officers, shrank from the witness-box; and their victims rotted in jail. Whatever the judgment, temper, and good faith of the executive, such a power was arbitrary, and could scarcely fail to be abused.[3] Whatever the dangers by which it was justified, — never did the subject so much need the protection of the laws, as when government and society were filled with suspicion and alarm.

Its continuance; 1794-1800.

Notwithstanding the failure of the state prosecutions, and the discredit cast upon the evidence of a traitorous conspiracy, on which the Suspension Act had

[1] Parl. Hist., xxxi. 497, 521, 525.

[2] "Nullus liber homo capiatur aut imprisonetur, nisi per legale judicium parium suorum." . . . . . "Nulli negabamus, nulli differemus justiciam."

[3] Blackstone says: — "It has happened in England during temporary suspensions of the statute, that persons apprehended upon suspicion have suffered a long imprisonment, merely because they were forgotten." — *Comm.* iii. (Kerr) 146.

been expressly founded, ministers declined to surrender the invidious power with which they had been intrusted. Strenuous resistance was offered by the opposition to the continuance of the act; but it was renewed again and again, so long as the public apprehensions continued. From 1798 to 1800, the increased malignity and violence of English democrats, and their complicity with Irish treason, repelled further objections to this exceptional law.[1]

Habeas Corpus Suspension Act expired 1801.

At length, at the end of 1801, the act, being no longer defensible on grounds of public danger, was suffered to expire, after a continuous operation of eight years.[2] But before its operation had ceased, a bill was introduced to indemnify all persons who since the 1st of February, 1793, had acted in the apprehension of persons suspected of high treason. A measure designed to protect the ministers and their agents from responsibility, on account of acts extending over a period of eight years, was not suffered to pass without strenuous opposition.[3] When extraordinary powers had first been sought, it was said that ministers would be responsible for their proper exercise; and now every act of authority, every neglect or abuse, was to be buried in oblivion. It was stated in debate that some persons had suffered imprisonment for three years, and one for six, without being brought to trial;[4] and Lord Thurlow could "not resist the impulse to deem men innocent until tried and convicted." The measure was defended, however, on the ground that persons accused of abuses would be unable to defend themselves, without disclosing secrets dangerous to the lives of individuals and to the

Indemnity Bill, 1801.

[1] In 1798 there were only seven votes against its renewal. In 1800 it was opposed by twelve in the Commons, and by three in the Lords. It was then stated that twenty-nine persons had been imprisoned, some for more than two years, without being brought to trial. — *Parl. Hist.*, xxxiv. 1484.

[2] The act 41 Geo. III. c. 26, expired six weeks after the commencement of the next session, which commenced on the 29th of Oct., in the same year.

[3] Parl. Hist., xxxv. 1507–1549.

[4] *Ibid.*, xxxv. 1517.

state. Unless the bill were passed, those channels of information would be stopped, on which government relied for guarding the public peace.[1] When all the accustomed forms of law had been departed from, the justification of the executive would indeed have been difficult: but evil times had passed, and a veil was drawn over them. If dangerous powers had been misused, they were covered by an amnesty. It were better to withhold such powers, than to scrutinize their exercise too curiously; and were any further argument needed against the suspension of the law, it would be found in the reasons urged for indemnity.

Suspension of Habeas Corpus Act, 1817.

For several years, the ordinary law of arrest was free from further invasion. But on the first appearance of popular discontents and combinations, the government resorted to the same ready expedient for strengthening the hands of the executive, at the expense of public liberty. The suspension of the Habeas Corpus Act formed part of Lord Sidmouth's repressive measures in 1817,[2] when it was far less defensible than in 1794. At the first period, the French Revolution was still raging: its consequences no man could foresee; and a deadly war had broken out with the revolutionary government of France. Here, at least, there may have been grounds for extraordinary precautions. But in 1817, France was again settled under the Bourbons: the revolution had worn itself out: Europe was again at peace; and the state was threatened with no danger but domestic discontent and turbulence.

Bill of Indemnity, 1817.

Again did ministers, having received powers to apprehend and detain in custody persons suspected of treasonable practices, and, having imprisoned many men without bringing them to trial, — seek indemnity for all concerned in the exercise of these powers, and in the suppression of tumultuous assemblies.[3] Magistrates had seized papers

[1] Parl. Hist., xxxv. 1510.

[2] *Supra*, p. 186.

[3] Hans. Deb., 1st Ser., xxxv. 491, 551, 643, 708, 795, &c.; 57 Geo. III. c. 55; repealed by 58 Geo. III. c. 1.

and arms, and interfered with meetings, under circumstances not warranted even by the exceptional powers intrusted to them: but having acted in good faith for the repression of tumults and sedition, they claimed protection. This bill was not passed without strenuous resistance. The executive had not been idle in the exercise of its extraordinary powers. Ninety-six persons had been arrested on suspicion. Of these, forty-four were taken by warrant of the secretary of state; four by warrant of the privy council; the remainder on the warrants of magistrates. Not one of those arrested on the warrant of the secretary of state, had been brought to trial. The four arrested on the warrant of the privy council, were tried and acquitted.[1] Prisoners had been moved from prison to prison in chains; and after a long, painful, and even solitary imprisonment, discharged on their recognizances, without trial.[2]

Petitions complaining of ill-usage.

Numerous petitions were presented, complaining of cruelties and hardships; and though falsehood and exaggeration characterized many of their statements, the justice of inquiry was insisted on, before a general indemnity was agreed to. "They were called upon," said Mr. Lambton, "to throw an impenetrable veil over all the acts of tyranny and oppression that had been committed under the Suspension Act. They were required to stifle the voice of just complaint, — to disregard the numerous petitions that had been presented, arraigning the conduct of ministers, detailing acts of cruelty unparalleled in the annals of the Bastile, and demanding full and open investigation."[3] But on behalf of government, it appeared that in no instance had warrants of detention been issued, except on information upon oath;[4] and the attorney-general declared that none of

[1] Lords' Report on the State of the Country. In ten other cases the parties had escaped. Hans. Deb., 1st Ser., xxxvii. 573; Sir M. W. Ridley, March 9th, 1818; *Ibid.*, 901.

[2] Petitions of Benbow, Drummond, Bagguley, Leach, Scholes, Ogden, and others. — Hans. Deb., 1st Ser., xxxvii. 438, 441, 453, 461, 519.

[3] March 9th, 1818; Hans. Deb., 1st Ser., xxxvii. 891.

[4] Lords' Rep. on State of the Nation. Hans. Deb., 1st Ser., xxxvii. 574.

the prisoners had been deprived of liberty for a single hour, on the evidence of informers alone, which was never acted on, unless corroborated by other undoubted testimony.[1]

Habeas Corpus Act since respected.

Indemnity was granted for the past: but the discussions which it provoked, disclosed, more forcibly than ever, the hazard of permitting the even course of the law to be interrupted. They were not without their warning. Even Lord Sidmouth was afterwards satisfied with the rigorous provisions of the Six Acts; and, while stifling public discussion, did not venture to propose another forfeiture of personal liberty. And happily, since his time, ministers, animated by a higher spirit of statesmanship, have known how to maintain the authority of the law, in England, without the aid of abnormal powers.

Suspension of Habeas Corpus Act in Ireland.

In Ireland, a less settled state of society, — agrarian outrages, — feuds envenomed by many deeds of blood, — and dangerous conspiracies, have too often called for sacrifices of liberty. Before the Union, a bloody rebellion demanded this security; and since that period, the Habeas Corpus Act has been suspended on no less than six occasions.[2] The last Suspension Act, in 1848, was rendered necessary by an imminent rebellion, openly organized and threatened: when the people were arming, and their leaders inciting them to massacre and plunder.[3] Other measures in restraint of crime and outrage have also pressed upon the constitutional liberties of the Irish people. But let us hope that the rapid advancement of that country in wealth and industry, in enlightenment and social improvement, may henceforth entitle its spirited and generous people to the enjoyment of the same confidence as their English neighbors.

But perhaps the greatest anomaly in our laws, — the most

[1] Feb. 17th, 1818, Hans. Deb., 1st Ser., xxxvii. 499, 881, 953, &c.

[2] It was suspended in 1800, at the very time of the Union; from 1802 till 1805; from 1807 till 1810; in 1814; and from 1822 till 1824.

[3] Hans. Deb., 3d Ser., c. 696–755.

signal exception to personal freedom, — is to be found in the custom of impressment for the land and sea service. There is nothing incompatible with freedom in a conscription or forced levy of men for the defence of the country. It may be submitted to, in the freest republic, like the payment of taxes. The services of every subject may be required, in such form as the state determines. But impressment is the arbitrary and capricious seizure of individuals from among the general body of citizens. It differs from conscription, as a particular confiscation differs from a general tax.

Impressment.

The impressment of soldiers for the wars was formerly exercised as part of the royal prerogative; but among the services rendered to liberty by the Long Parliament, in its earlier councils, this custom was condemned, "except in case of necessity of the sudden coming in of strange enemies into the kingdom, or except" in the case of persons "otherwise bound by the tenure of their lands or possessions."[1] The prerogative was discontinued: but during the exigencies of war, the temptation of impressment was too strong to be resisted by Parliament.

Impressment for the army.

The class on whom it fell, however, found little sympathy from society. They were rogues and vagabonds, who were held to be better employed in defence of their country, than in plunder and mendicancy.[2] During the American war, impressment was permitted in the case of all idle and disorderly persons, not following any lawful trade or having some substance sufficient for their maintenance.[3] Such men were seized upon, without compunction, and hurried to the war. It was a dangerous license, repugnant to the free spirit of our laws; and, in later times, the state has trusted to bounties and the recruiting sergeant, and not to impressment, — for strengthening its land forces.

[1] 16 Charles I. c. 28.
[2] Parl. Hist., xv. 547.
[3] 19 Geo. III. c. 10; Parl. Hist., xx. 114.

But for manning the navy in time of war, the impressment of seamen has been recognized by the common law and by many statutes.[1] The hardships and cruelties of the system were notorious.[2] No violation of natural liberty could be more gross. Free men were forced into a painful and dangerous service, not only against their will, but often by fraud and violence. Entrapped in taverns, or torn from their homes by armed press-gangs, in the dead of night, they were hurried on board ship, to die of wounds or pestilence. Impressment was restricted by law to seamen, who, being most needed for the fleet, chiefly suffered from the violence of the press-gangs. They were taken on the coast, or seized on board merchant-ships, like criminals: ships at sea were rifled of their crews, and left without sufficient hands to take them safely into port. Nay, we even find soldiers employed to assist the press-gangs: villages invested by a regular force: sentries standing with fixed bayonets; and churches surrounded, during divine service, to seize seamen for the fleet.[3] Impressment for the navy.

The lawless press-gangs were no respecters of persons. In vain did apprentices and landsmen claim exemption. They were skulking sailors in disguise, or would make good seamen at the first scent of salt-water; and were carried off to the sea ports. Press-gangs were the terror of citizens and apprentices in London, of laborers in villages, and of artisans in the remotest inland towns. Their approach was dreaded like the invasion of a foreign enemy. To escape their swoop, men forsook their trades and families and fled, — or armed themselves for resistance. Their deeds have been recounted in history, in fiction, and in song. Outrages were of course deplored; but the navy was the pride of England, and every one agreed that it must Press-gangs.

[1] Sir M. Foster's Rep., 154; Stat. 2 Rich. II. c. 4; 2 & 3 Phil., and Mary c. 16, &c.; 5 & 6 Will. IV. c. 24; Barrington on the Statutes, 334; Blackstone, i. 425 (Kerr); Stephen's Comm., ii. 576; Parl. Hist., vi. 518.

[2] Parl. Hist., xv. 544, xix. 81, &c.

[3] Dec. 2d, 1755, Parl. Hist., xv. 549.

be recruited. In vain were other means suggested for manning the fleet, — higher wages, limited service, and increased pensions. Such schemes were doubtful expedients: the navy could not be hazarded: press-gangs must still go forth and execute their rough commission, or England would be lost. And so impressment prospered.[1]

So constant were the draughts of seamen for the American war, that in 1779 the customary exemptions from impressment were withdrawn. Men following callings under the protection of various statutes were suddenly kidnapped, by the authority of Parliament, and sent to the fleet; and this invasion of their rights was effected in the ruffianly spirit of the press-gang. A bill proposed late at night, in a thin house, and without notice, — avowedly in order to surprise its victims, — was made retrospective in its operation. Even before it was proposed to Parliament, orders had been given for a vigorous impressment, without any regard to the existing law. Every illegal act was to be made lawful; and men who had been seized in violation of statutes, were deprived of the protection of a writ of *habeas corpus*.[2] Early in the next exhausting war, the state, unable to spare its rogues and vagabonds for the army, allowed them to be impressed, with smugglers and others of doubtful means and industry, for the service of the fleet. The select body of electors were exempt; but all other men out of work were lawful prize. Their service was without limit: they might be slaves for life.[3]

Retrospective Act, 1779.

Enlistment Act, 1795.

Throughout the war, these sacrifices of liberty were ex-

[1] See debate on Mr. Luttrell's motion, March 11th, 1777; Parl. Hist., xix. 81. On the 22d Nov., 1770, Lord Chatham said: — "I am myself clearly convinced, and I believe every man who knows anything of the English navy will acknowledge, that, without impressing, it is impossible to equip a respectable fleet within the time in which such armaments are usually wanted." — *Parl. Hist.*, xvi. 1101.

[2] June 23d, 1779. Speech of the attorney-general Wedderburn; Parl. Hist., xx. 962; 29 Geo. III. c. 75.

[3] 35 Geo. III. c. 34.

acted for the public safety. But when the land was once more blessed with peace, it was asked if they would be endured again. The evils of impressment were repeatedly discussed in Parliament, and schemes of voluntary enlistment proposed by Mr. Hume [1] and others.[2] Ministers and Parliament were no less alive to the dangerous principles on which recruiting for the navy had hitherto been conducted; and devised new expedients more consistent with the national defences of a free country. Higher wages, larger bounties, shorter periods of service, and a reserve volunteer force,[3] — such have been the means by which the navy has been at once strengthened and popularized. During the Russian war great fleets were manned for the Baltic and the Mediterranean by volunteers. Impressment, — not yet formally renounced by law, — has been condemned by the general sentiment of the country; [4] and we may hope that modern statesmanship has, at length, provided for the efficiency of the fleet, by measures consistent with the liberty of the subject.

Enlistment since the peace.

The personal liberty of British subjects has further suffered from rigors and abuses of the law. The supervision necessary for the collection of taxes, — and especially of the excise, — has been frequently observed upon, as a restraint upon the natural freedom of the subject. The visits of revenue officers throughout the processes of manufacture, the summary procedure by which penalties are enforced, and the encouragement given to informers, have

Revenue Laws.

[1] June 10th, 1824; Hans. Deb., 2d Ser., xi. 1171; June 9th, 1825; *Ibid.*, xiii. 1097.

[2] Mr. Buckingham, Aug. 15th, 1833; March 4th, 1834; Hans. Deb., 3d Ser, xx. 691; xxi. 1061; Earl of Durham, March 3d, 1834; *Ibid.*, xxi. 992; Capt. Harris, May 23d, 1850; *Ibid.*, cxi. 279

[3] 5 & 6 Will. IV. c. 24; Hans. Deb., 3d Ser., xxvi. 1120; xcii. 10, 729; 16 & 17 Vict. c. 69; 17 & 18 Vict. c. 18.

[4] The able commission on manning the navy, in 1859, reported "the evidence of the witnesses, with scarcely an exception, shows that the system of naval impressment, as practised in former wars, could not now be successfully enforced." — p. xi.

been among the most popular arguments against duties of excise.[1] The repeal of many of these duties, under an improved fiscal policy, has contributed as well to the liberties of the people, as to their material welfare.

Crown debtors.

But restraints and vexations were not the worst incidents of the revenue laws. An onerous and complicated system of taxation involved numerous breaches of the law. Many were punished with fines, which, if not paid, were followed by imprisonment. It was right that the law should be vindicated; but while other offences escaped with limited terms of imprisonment, the luckless debtors of the crown, if too poor to pay their fees and costs, might suffer imprisonment for life.[2] Even when the legislature at length took pity upon other debtors, this class of prisoners were excepted from its merciful care.[3] But they have since shared in the milder policy of our laws; and have received ample indulgence from the Treasury and the Court of Exchequer.[4]

Vindictive exercise of privileges by Parliament, another encroachment upon liberty.

While Parliament continued to wield its power of commitment capriciously and vindictively, — not in vindication of its own just authority, but for the punishment of libels, and other offences cognizable by the law, — it was scarcely less dangerous than those arbitrary acts of prerogative which the law had already condemned, as repugnant to liberty. Its abuses, however, survived but for a few years after the accession of George III.[5]

[1] Adam Smith, speaking of "the frequent visits and odious examination of the tax-gatherers," says: — "Dealers have no respite from the continual visits and examination of the excise officers." — Book V. c. 2. — Blacktone says: — "The rigor, and arbitrary proceedings of excise laws, seem hardly compatible with the temper of a free nation." — *Comm.*, i. 308 (Kerr's ed.).

[2] Hans. Deb., 2d Ser., viii. 808.

[3] 53 Geo. III. c. 102, § 51.

[4] 7 Geo. IV. c. 57, § 74; 1 & 2 Vict. c. 110, §§ 103, 104.

[5] *Supra*, Chap. VII.; and see Townsend's Mem. of the House of Commons, *passim*.

But another power, of like character, continued to impose — and still occasionally permits — the most cruel restraints upon personal liberty. A court of equity can only enforce obedience to its authority by imprisonment. If obedience be refused, commitment for contempt must follow. The authority of the court would otherwise be defied, and its jurisdiction rendered nugatory. But out of this necessary judicial process grew up gross abuses and oppression. Ordinary offences are purged by certain terms of imprisonment; men suffer punishment and are free again. And, on this principle, persons committed for disrespect or other contempt to the court itself were released after a reasonable time, upon their apology and submission.[1] But no such mercy was shown to those who failed to obey the decrees of the court in any suit. Their imprisonment was indefinite, if not perpetual. Their contempt was only to be purged by obedience, — perhaps wholly beyond their power. For such prisoners, there was no relief but death. Some persisted in their contempt from obstinacy, sullenness, and litigious hate; but many suffered for no offence but ignorance and poverty. Humble suitors, dragged into court by richer litigants, were sometimes too poor to obtain professional advice, or even to procure copies of the bills filed against them. Lord Eldon himself, to his honor be it said, had charitably assisted such men to put in answers in his own court.[2] Others, again, unable to pay money and costs decreed against them, suffered imprisonment for life. This latter class, however, at length became entitled to relief as insolvent debtors.[3] But the complaints of other wretched men, to whom the law brought no relief, were often heard. In 1817, Mr. Bennet, in presenting a petition from one of these prisoners, thus stated his own experience:

Commitments for contempt

[1] Hans. Deb., 2d Ser., viii. 808.

[2] *Ibid.*, xiv. 1178.

[3] 49 Geo. III. c. 6. 53 Geo. III. c. 102, § 47; Hans. Deb., 2d Ser., xiv. 1178.

"Last year," he said, "Thomas Williams had been in confinement for thirty-one years by an order of the Court of Chancery. He had visited him in his wretched house of bondage, where he had found him sinking under all the miseries that can afflict humanity, and on the following day he died. At this time," he added, "there were in the same prison with the petitioner, a woman who had been in confinement twenty-eight years, and two other persons who had been there seventeen years."[1] In the next year, Mr. Bennet presented another petition from prisoners confined for contempt of court, complaining that nothing had been done to relieve them, though they had followed all the instructions of their lawyers. The petitioners had witnessed the death of six persons, in the same condition as themselves, one of whom had been confined four, another eighteen, and another thirty-four years.[2]

April 22d, 1818.

In 1820, Lord Althorp presented another petition; and among the petitioners was a woman, eighty-one years old, who had been imprisoned for thirty-one years.[3] In the eight years preceding 1820, twenty prisoners had died while under confinement for contempt, some of whom had been in prison for upwards of thirty years.[4] Even so late as 1856, Lord St. Leonards presented a petition, complaining of continued hardships upon prisoners for contempt; and a statement of the Lord Chancellor revealed the difficulty and painfulness of such cases. "A man who had been confined in the early days of Lord Eldon's Chancellorship for refusing to disclose certain facts, remained in prison, obstinately declining to make any statement upon the subject, until his death a few months ago."[5]

Aug. 31st, 1820

[1] 6th May, 1817; Hans. Deb., 1st Ser., xxxvi. 158. Mr. Bennet had made a statement on the same subject in 1816; *Ibid.*, xxxiv. 1099.

[2] Hans. Deb., 1st Ser., xxxviii. 284.

[3] Hans. Deb., 2d Ser., i. 693.

[4] *Ibid.*, xiv. 1178; Mr. Hume's Return, Parl. Paper, 1820 (302).

[5] Hans. Deb., 3d Ser., cxlii. 1570. In another recent case, a lad was committed for refusing to discontinue his addresses to a ward of the court, and died in prison.

Doubtless the peculiar jurisdiction of courts of equity has caused this extraordinary rigor in the punishment of contempts; but justice and a respect for personal liberty alike require that punishment should be meted out according to the gravity of the offence. The Court of Queen's Bench upholds its dignity by commitments for a fixed period; and may not the Court of Chancery be content with the like punishment for disobedience, however gross and culpable?

Arrest on Mesne Process.

Every restraint on public liberty hitherto noticed has been permitted either to the executive government, in the interests of the state, or to courts of justice, in the exercise of a necessary jurisdiction. Individual rights have been held subordinate to the public good; and on that ground, even questionable practices admitted of justification. But the law further permitted, and society long tolerated, the most grievous and wanton restraints, imposed by one subject upon another, for which no such justification is to be found. The law of debtor and creditor, until a comparatively recent period, was a scandal to a civilized country. For the smallest claim, any man was liable to be arrested, on mesne process, before legal proof of the debt. He might be torn from his family, like a malefactor, — at any time of day or night, — and detained until bail was given; and in default of bail, imprisoned until the debt was paid. Many of these arrests were wanton and vexatious; and writs were issued with a facility and looseness which placed the liberty of every man — suddenly and without notice — at the mercy of any one who claimed payment of a debt. A debtor, however honest and solvent, was liable to arrest. The demand might even be false and fraudulent: but the pretended creditor, on making oath of the debt, was armed with this terrible process of the law.[1] The wretched defendant might lie in prison for several months before his cause was heard; when, even if the action was discontinued

[1] An executor might even obtain an arrest on swearing to his belief of a debt. Report, 1792, Com. Journ., xlvii. 640.

or the debt disproved, he could not obtain his discharge without further proceedings, often too costly for a poor debtor, already deprived of his livelihood by imprisonment. No longer even a debtor, — he could not shake off his bonds.

Slowly and with reluctance did Parliament address itself to the correction of this monstrous abuse. In the reign of George I. arrests on mesne process, issuing out of the superior courts, were limited to sums exceeding 10*l.*;[1] but it was not until 1779, that the same limit was imposed on the process of inferior jurisdictions.[2] This sum was afterwards raised to 15*l.*, and in 1827 to 20*l.* In that year, 1100 persons were confined, in the prisons of the metropolis alone, on mesne process.[3]

The total abolition of arrests on mesne process was frequently advocated, but it was not until 1838 that it was at length accomplished. Provision was made for securing absconding debtors; but the old process for the recovery of debt in ordinary cases, which had wrought so many acts of oppression, was abolished. While this vindictive remedy was denied, the debtor's lands were, for the first time, allowed to be taken in satisfaction of a debt;[4] and extended facilities were afterwards afforded for the recovery of small claims, by the establishment of county courts.[5]

Imprisonment for debt.

The law of arrest was reckless of liberty: the law of execution for debt was one of savage barbarity. A creditor is entitled to every protection and remedy, which the law can reasonably give. All the debtor's property should be his; and frauds by which he has been wronged should be punished as criminal. But the remedies of English law against the property of a debtor were

[1] 12 Geo. I. c. 29.

[2] 19 Geo. III. c. 70.

[3] Hans. Deb., 2d Ser., xvii. 386. The number in England amounted to 3662.

[4] 1 & 2 Vict. c. 110.

[5] 9 & 10 Vict. c. 95.

strangely inadequate, — its main security being the body of the debtor. This became the property of the creditor, until the debt was paid. The ancients allowed a creditor to seize his debtor and hold him in slavery. It was a cruel practice, condemned by the most enlightened lawgivers;[1] but it was more rational and humane than the law of England. By servitude a man might work out his debt: by imprisonment, restitution was made impossible. A man was torn from his trade and industry, and buried in a dungeon: the debtor perished, but the creditor was unpaid. The penalty of an unpaid debt, however small, was imprisonment for life. A trader within the operation of the bankrupt laws might obtain his discharge, on giving up all his property; but for an insolvent debtor, there was no possibility of relief, but charity or the rare indulgence of his creditor. His body being the property of his creditor, the law could not interfere. He might become insane, or dangerously sick: but the court was unable to give him liberty. We read with horror of a woman dying in the Devon County Jail, after an imprisonment of forty-five years, for a debt of 19*l.*[2]

Debtors' prisons.

While the law thus trifled with the liberty of debtors, it took no thought of their wretched fate, after the prison-door had closed upon them. The traditions of the debtors' prison are but too familiar to us all. The horrors of the Fleet and Marshalsea were laid bare in 1729. The poor debtors were found crowded together on the "common side," — covered with filth and vermin, and suffered to die, without pity, of hunger and jail-fever. Nor did they suffer from neglect alone. They had committed no crime: yet were they at the mercy of brutal jailers, who loaded them with irons, and racked them with tortures.[3] No at-

[1] Solon renounced it, finding examples amongst the Egyptians. — *Plutarch's Life of Solon; Diod. Sic.*, lib. i. part 2, ch. 3; *Montesquieu*, livr. xii. ch. 21. It was abolished in Rome, A. R. 428, when the true principle was thus defined: — "Bona debitoris, non corpus obnoxium esset." — *Livy*, lib. 8; *Montesquieu*, livr. xx. ch. 14.

[2] Rep. of 1792, Com. Journ., xlvii. 647.

[3] Com. Journ., xxi. 274, 376, 513

tempt was made to distinguish the fraudulent from the unfortunate debtor. The rich rogue — able, but unwilling to pay his debts — might riot in luxury and debauchery, while his poor, unlucky fellow-prisoner was left to starve and rot on the "common side."[1]

The worst iniquities of prison-life were abated by the active benevolence of John Howard; and poor debtors found some protection, in common with felons, from the brutality of jailers. But otherwise their sufferings were without mitigation. The law had made no provision for supplying indigent prisoners with necessary food, bedclothes, or other covering;[2] and it was proved, in 1792, that many died of actual want, being without the commonest necessaries of life.[3]

The Thatched-house Society, 1772.

The first systematic relief was given to insolvent debtors by the benevolence of the Thatched House Society, in 1772. In twenty years this noble body released from prison 12,590 honest and unfortunate debtors; and so trifling were the debts for which these prisoners had suffered confinement, that their freedom was obtained at an expense of forty-five shillings a head. Many were discharged merely on payment of the jail-fees, for which alone they were detained in prison: others on payment of costs, the original debts having long since been discharged.[4]

Exposure of abuses, 1792 and 1815.

The monstrous evils and abuses of imprisonment for debt, and the sufferings of prisoners, were fully exposed in an able report to the House of Commons, drawn by Mr. Grey in 1792.[5] But for several years

[1] Rep. 1792, Com. Journ., xlvii. 652; Vicar of Wakefield, ch. xxv.–xxviii.

[2] Report, 1792, Com. Journ., xlvii. 641. The only exception was under the act 32 Geo. II. c. 28, of very partial operation, under which the detaining creditor was forced to allow the debtor 4*d.* a day; and such was the cold cruelty of creditors, that many a debtor confined for sums under 20*s.* was detained at their expense, which soon excceded the amount of the debt. — *Ibid.*, 644, 650. This allowance was raised to 3*s.* 6*d.* a week by 37 Geo. III. c. 85.

[3] *Ibid.*, 651.

[4] Report, 1792, Com. Journ., xlvii. 648.

[5] Com. Journ., xlvii. 640.

these evils received little correction. In 1815 the prisons were still overcrowded, and their wretched inmates left without allowance of food, fuel, bedding, or medical attendance. Complaints were still heard of their perishing of cold and hunger.[1]

Special acts had been passed, from time to time, since the reign of Anne,[2] for the relief of insolvents; but they were of temporary and partial operation. Overcrowded prisons had been sometimes thinned: but the rigors and abuses of the laws affecting debtors were unchanged; and thousands of insolvents still languished in prison. In 1760, a remedial measure of more general operation, was passed: but was soon afterwards repealed.[3] Provision was also made for the release of poor debtors in certain cases:[4] but it was not until 1813 that insolvents were placed under the jurisdiction of a court, and entitled to seek their discharge on rendering a true account of all their debts and property.[5] A distinction was at length recognized between poverty and crime. This great remedial law restored liberty to crowds of wretched debtors. In the next thirteen years upwards of 50,000 were set free.[6] Thirty years later, its beneficent principles were further extended, when debtors were not only released from confinement, but able to claim protection to their liberty, on giving up all their goods.[7] And at length, in 1861, the law attained its fullest development: when fraudulent debt was dealt with as a crime, and imprisonment of common debtors

Insolvent Debtors' Act, 1813

Later measures of relief to debtors.

[1] 7th March, 1815, Hans. Deb., 1st Ser., xxx. 39; Commons' Report on King's Bench, Fleet, and Marshalsea Prisons, 1815. The King's Bench, calculated to hold 220 prisoners, had 600; the Fleet, estimated to hold 200, had 769.

[2] 1 Anne, st. i. c. 25.

[3] 1 Geo. III. c. 17; Adolph. Hist., i. 17, *n.*

[4] 32 Geo. II. c. 28. 33 Geo. III. c. 5.

[5] 53 Geo. III. c. 102; Hans. Deb., 1st Ser., xxvi. 301, &c.

[6] Mr. Hume's Return, 1827 (430).

[7] Protection Acts, 5 & 6 Vict. c. 96; 7 & 8 Vict. c. 96.

was repudiated.[1] Nor did the enlightened charity of the legislature rest here. Debtors already in confinement were not left to seek their liberation: but were set free by the officers of the Court of Bankruptcy.[2] Some had grown familiar with their prison-walls, and having lost all fellowship with the outer world, clung to their miserable cells as to a home.[3] They were led forth gently, and restored to a life that had become strange to them; and their untenanted dungeons were condemned to destruction.

The free soil of England has, for ages, been relieved from the reproach of slavery. The ancient condition of villenage expired about the commencement of the seventeenth century;[4] and no other form of slavery was recognized by our laws. In the colonies, however, it was legalized by statute;[5] and it was long before the rights of a colonial slave, in the mother-country, were ascertained. Lord Holt, indeed, had pronounced an opinion that, "as soon as a negro comes into England, he becomes free;" and Mr. Justice Powell had affirmed that "the law takes no notice of a negro."[6] But these just opinions were not confirmed by express adjudication until the celebrated case of James Sommersett in 1771. This negro having been brought to England by his owner, Mr. Stewart, left that gentleman's service, and refused to return to it. Mr. Stewart had him seized and placed in irons on board a ship then lying in the Thames and about to sail for Jamaica, — where he intended to sell his mutinous slave. But while the negro was still lying on board, he was brought before the Court of King's Bench by *habeas corpus*. The question was now fully

The negro case, 1771.

1 Bankruptcy Act, 24 & 25 Vict. c. 134, § 221.

2 *Ibid.*, § 98–12.

3 In January, 1862, John Miller was removed from the Queen's Bench Prison, having been there since 1814. — *Times*, Jan. 23d, 1862.

4 Noy. 27. Hargrave's Argument in Negro Case, St. Tr., xx 40; Smith's Commonwealth, book 2, ch. 10; Barrington on the Statutes, 2d ed., p. 232.

5 10 Will. III. c. 26; 5 Geo. II. c. 7; 32 Geo. II. c. 31.

6 Smith *v.* Browne and Cowper, 2 Salk. 666.

discussed, more particularly in a most learned and able argument by Mr. Hargrave; and at length, in June, 1772, Lord Mansfield pronounced the opinion of the Court, that slavery in England was illegal, and that the negro must be set free.[1]

It was a righteous judgment: but scarcely worthy of the extravagant commendation bestowed upon it at that time and since. This boasted law, as declared by Lord Mansfield, was already recognized in France, Holland, and some other European countries; and as yet England had shown no symptoms of compassion for the negro beyond her own shores.[2]

In Scotland, negro slaves continued to be sold as chattels, until late in the last century.[3] It was not until 1756, that the lawfulness of negro slavery was questioned. In that year, however, a negro who had been brought to Scotland, claimed his liberty of his master, Robert Sheddan, who had put him on board ship to return to Virginia. But before his claim could be decided, the poor negro died.[4] But for this sad incident, a Scotch court would first have had the credit of setting the negro free on British soil. Four years after the case of Sommersett, the law of Scotland was settled. Mr. Wedderburn had brought with him to Scotland, as his personal servant, a negro named Knight, who continued several years in his service, and married in that country. But, at length, he claimed his freedom. The sheriff, being appealed to, held "that the state of slavery is not recognized by the laws of this kingdom." The case being brought before the Court of Session, it was adjudged that the master had no right to the negro's

Negroes in Scotland.

[1] Case of James Sommersett, St. Tr., xx. 1; Lofft's Rep., 1.

[2] Hargrave's Argument, St. Tr., xx. 62.

[3] Chambers' Domestic Annals of Scotland, iii. 453. On the 2d May, 1722, an advertisement appeared in the Edinburgh Evening Courant, announcing that a stolen negro had been found, who would be sold to pay expenses, unless claimed within two weeks. — *Ibid.*

[4] See Dictionary of Decisions, *tit.* Slave, iii. 14,545.

service, nor to send him out of the country without his consent.[1]

Colliers and salters, in Scotland.

The negro in Scotland was now assured of freedom: but, startling as it may sound, the slavery of native Scotchmen continued to be recognized, in that country, to the very end of last century. The colliers and salters were unquestionably slaves. They were bound to continue their service during their lives, were fixed to their places of employment, and sold with the works to which they belonged. So completely did the law of Scotland regard them as a distinct class, not entitled to the same liberties as their fellow-subjects, that they were excepted from the Scotch Habeas Corpus Act of 1701. Nor had their slavery the excuse of being a remnant of the ancient feudal state of villenage, which had expired before coal-mines were yet worked in Scotland. But being paid high wages, and having peculiar skill, their employers had originally contrived to bind them to serve for a term of years, or for life; and such service at length became a recognized custom.[2] In 1775 their condition attracted the notice of the legislature, and an act was passed for their relief.[3] Its preamble stated that "many colliers and salters are in a state of slavery and bondage;" and that their emancipation "would remove the reproach of allowing such a state of servitude to exist in a free country." But so deeply rooted was this hateful custom, that Parliament did not venture to condemn it as illegal. It was provided that colliers and salters commencing work after the 1st of July, 1775, should not become slaves; and that those already in a state of slavery might obtain their freedom in seven years, if under twenty-one years of age; in ten years, if under thirty-five. To avail themselves of this enfranchisement, however, they were obliged to obtain a decree of the Sheriff's Court; and these poor ignorant

[1] See Dictionary of Decisions, *tit.* Slave, iii. p. 14,549.

[2] Forb. Inst., part 1, b. 2, t. 3; Macdonal. Inst., i. 63; Cockburn's Mem., 76.

[3] 15 Geo. III. c. 28.

slaves, generally in debt to their masters, were rarely in a condition to press their claims to freedom. Hence the act was practically inoperative. But at length, in 1799, their freedom was absolutely established.[1] The last vestige of slavery was now effaced from the soil of Britain: but not until the land had been resounding for years with outcries against the African slave-trade. Seven years later that odious traffic was condemned; and at length colonial slavery itself — so long encouraged and protected by the legislature — gave way before the enlightened philanthropy of another generation.

Slave-trade and colonial slavery.

Next in importance to personal freedom is immunity from suspicions and jealous observation. Men may be without restraints upon their liberty: they may pass to and fro at pleasure: but if their steps are tracked by spies and informers, their words noted down for crimination, their associates watched as conspirators, — who shall say that they are free? Nothing is more revolting to Englishmen than the espionage which forms part of the administrative system of continental despotisms. It haunts men like an evil genius, chills their gayety, restrains their wit, casts a shadow over their friendships, and blights their domestic hearth. The freedom of a country may be measured by its immunity from this baleful agency.[2] Rulers who distrust their own people must govern in a spirit of absolutism; and suspected subjects will be ever sensible of their bondage.

Spies and informers.

Our own countrymen have been comparatively exempt from this hateful interference with their moral freedom. Yet we find many traces of a system

Spies in 1764.

[1] 39 Geo. III. c. 56.

[2] Montesquieu speaks of informers as "un genre d'hommes funeste." — Liv. vi. ch. 8. And of spies, he says: — "Faut-il des espions dans la monarchie? ce n'est pas la pratique ordinaire des bons princes." — Liv. xii. ch. 23. And again: — "L'espionage seroit peut-être tolerable s'il pouvait être exercé par d'honnêtes-gens; mais l'infamie necessaire de la personne peut faire juger de l'infamie de la chose." — *Ibid.*

repugnant to the liberal policy of our laws. In 1764, we see spies following Wilkes everywhere, dogging his steps like shadows, and reporting every movement of himself and his friends to the secretaries of state. Nothing was too insignificant for the curiosity of these exalted magistrates. Every visit he paid or received throughout the day was noted: the persons he chanced to encounter in the streets were not overlooked: it was known where he dined, or went to church, and at what hour he returned home at night.[1]

Spies in 1794.

In the state trials of 1794, we discover spies and informers in the witness-box, who had been active members of political societies, sharing their councils, and encouraging, if not prompting, their criminal extravagance.[2] And throughout that period of dread and suspicion, society was everywhere infested with espionage.[3]

In 1817.

Again, in 1817, government spies were deeply compromised in the turbulence and sedition of that period. Castle, a spy of infamous character, having uttered the most seditious language and incited the people to arm, proved in the witness-box the very crimes he had himself prompted and encouraged.[4] Another spy, named Oliver, proceeded into the disturbed districts, in the character of a London delegate, and remained for many weeks amongst the deluded operatives, everywhere instigating them to rise and arm. He encouraged them with hopes that, in the event of a rising, they would be assisted by 150,000 men in the metropolis; and thrusting himself into their society, he concealed the craft of the spy under the disguise of a traitorous conspirator.[5] Before he undertook this shameful

[1] Grenville Papers, ii. 155.

[2] St. Tr., xxiv. 722, 800, 806.

[3] *Supra*, p. 143; Wilberforce's Life, iv. 369; Cartwright's Life, i. 209; Currie's Life, i. 172; Holcroft's Mem., ii. 190; Stephens' Life of Horne Tooke, ii. 118.

[4] *Ibid.*, xxxii. 214, 284, *et seq.*; Earl Grey, June 16th, 1817; Hans. Deb., 1st Ser. xxxvi. 1002.

[5] Bamford's Life of a Radical, i. 77, 153; Mr. Ponsonby's Statement, June 23d, 1817; Hans. Deb., 1st Ser., xxxvi. 1114.

mission, he was in communication with Lord Sidmouth, and throughout his mischievous progress was corresponding with the government or its agents. Lord Sidmouth himself is above the suspicion of having connived at the use of covert incitements to treason. The spies whom he employed had sought him out and offered their services in the detection of crime; and, being responsible for the public peace, he had thought it necessary to secure information of the intended movements of dangerous bodies of men.[1] But Oliver's activity was so conspicuous as seriously to compromise the government. Immediately after the outbreak in Derbyshire, his conduct was indignantly reprobated in both Houses;[2] and after the outrages, in which he had been an accomplice, had been judicially investigated, his proceedings received a still more mereiless exposure in Parliament.[3] There is little doubt that Oliver did more to disturb the public peace by his malign influence, than to protect it by timely information to the government. The agent was mischievous, and his principals could not wholly escape the blame of his misdeeds. Their base instrument, in his coarse zeal for his employers, brought discredit upon the means they had taken, in good faith, for preventing disorders. To the severity of repressive measures, and a rigorous administration of the law, was added the reproach of a secret alliance between the executive and a wretch who had at once tempted and betrayed his unhappy victims.

Relations of the executive with informers.

The relations between the government and its informers are of extreme delicacy. Not to profit by timely information were a crime; but to retain in government pay and to reward spies and informers, who consort with conspirators as their sworn accomplices and encourage while they betray them in their crimes, is a

[1] Lord Sidmouth's Life, iii. 185.

[2] 16th and 23d June, 1817; Hans. Deb., 1st Ser., xxxvi. 1016, 1111.

[3] St. Tr., xxxii. 755, *et seq.*; 11th Feb., 1818; Hans. Deb., xxxvii. 338; Speeches of Lord Milton, Mr. Bennet; Feb. 19th and March 5th (Lords); *Ibid.*, 522, 802.

practice for which no plea can be offered. No government, indeed, can be supposed to have expressly instructed its spies to instigate the perpetration of crime; but to be unsuspected, every spy must be zealous in the cause which he pretends to have espoused; and his zeal in a criminal enterprise is a direct encouragement of crime. So odious is the character of a spy, that his ignominy is shared by his employers, against whom public feeling has never failed to pronounce itself, in proportion to the infamy of the agent and the complicity of those whom he served.

The spy Edwards, 1820.

Three years later, the conduct of a spy named Edwards, in connection with the Cato Street Conspiracy, attracted unusual obloquy. For months he had been at once an active conspirator and the paid agent of the government; prompting crimes, and betraying his accomplices. Thistlewood had long been planning the assassination of the ministers; and Edwards had urged him to attempt that monstrous crime, the consummation of which his treachery prevented. He had himself suggested other crimes, no less atrocious. He had counselled a murderous outrage upon the House of Commons, and had distributed hand-grenades among his wretched associates, in order to tempt them to deeds of violence.[1] The conspirators were justly hung: the devilish spy was hidden and rewarded. Infamy so great and criminal in a spy had never yet been exposed; but the frightfulness of the crime which his information had prevented, and the desperate character of the men who had plotted it, saved ministers from much of the odium that had attached to their connection with Oliver. They had saved themselves from assassination; and could they be blamed for having discovered and prevented the bloody design? The crime had been plotted in darkness and secrecy, and countermined by the cunning and treachery of an accom-

[1] Ann. Reg., 1820, p. 30; Hans. Deb., 2d Ser., i. 54, 242; Lord Sidmouth's Life, iii. 216; Edinb. Rev., xxxiii. 211; St. Tr., xxxiii. 749, 754, 987, 1004, 1435.

plice. That it had not been consummated, was due to the very agency which hostile critics sought to condemn. But if ministers escaped censure, — the iniquity of the spy-system was illustrated in its most revolting aspects.

Detective police.

Again, in 1833, complaint was made that the police had been concerned in equivocal practices, too much resembling the treachery of spies; but a parliamentary inquiry elicited little more than the misconduct of a single policeman, who was dismissed from the force.[1] And the organization of a well-qualified body of detective police has at once facilitated the prevention and discovery of crime, and averted the worst evils incident to the employment of spies.

Opening letters.

Akin to the use of spies, to watch and betray the acts of men, is the intrusion of government into the confidence of private letters intrusted to the Post-office. The state having assumed a monopoly in the transmission of letters on behalf of the people, its agents could not pry into their secrets without a flagrant breach of trust, which scarcely any necessity could justify. For the detection of crimes dangerous to the state or society, a power of opening letters was, indeed, reserved to the secretary of state. But for many years, ministers or their subordinate officers appear to have had no scruples in obtaining information, through the Post-office, not only of plots and conspiracies, but of the opinions and projects of their political opponents. Curiosity more often prompted this vexatious intrusion, than motives of public policy.

The political correspondence of the reign of George III. affords conclusive evidence, that the practice of opening the letters of public men at the Post-office was known to be general. We find statesmen of all parties alluding to the practice, without reserve or hesitation, and intrusting their

[1] Petition of F. Young and others; Commons' Rep., 1833; Hans. Deb 3d Ser., xviii. 1359; xx. 404, 834

letters to private hands whenever their communications were confidential.[1]

Traces of this discreditable practice, so far as it ministered to idle or malignant curiosity, have disappeared since the early part of the present century. From that period, the general correspondence of the country, through the Post-office, has been inviolable. But for purposes of police and diplomacy, — to thwart conspiracies at home, or hostile combinations abroad, — the secretary of state has continued, until our own time, to issue warrants for opening the letters of persons suspected of crimes, or of designs injurious to the state. This power, sanctioned by long usage and by many statutes, had been continually exercised for two centuries. But it had passed without ob-

Petition of Mazzini and others, June 14th, 1844.

[1] From a great number of examples, the following may be selected: —

Lord Hardwicke, writing in 1762 to Lord Rockingham of the Duke of Devonshire's spirited letter to the Duke of Newcastle, said: — "Which his grace judged very rightly in sending by the common post, and trusting to their curiosity." — *Rockingham Mem.*, i. 157.

Mr. Hans Stanley, writing to Mr. Grenville, Oct. 14th, 1765, says: — "Though this letter contains nothing of consequence, I chuse to send it by a private hand, observing that all my correspondence is opened in a very awkward and bungling manner, which I intimate in case you should chuse to write anything which you would not have publick." — *Grenville Papers*, iii. 99. Again, Mr. Whately, writing to Mr. Grenville, June 4th, 1768, says: — "I may have some things to say which I would not tell the post-master, and for that reason have chosen this manner of conveyance." — *Ibid.*, iv. 299.

Lord Temple, writing to Mr. Beresford, Oct. 23d, 1783, says: — "The shameful liberties taken with my letters, both sent and received (for even the speaker's letter to me had been opened), make me cautious on politics." — *Beresford Correspondence*, i. 243.

Mr. Pitt, writing to Lady Chatham, Nov. 11th, 1783, said: — "I am afraid it will not be easy for me, by the post, to be anything else than a fashionable correspondent, for I believe the fashion which prevails, of opening almost every letter that is sent, makes it almost impossible to write anything worth reading." — *Lord Stanhope's Life of Pitt*, i. 136.

Lord Melville, writing to Mr. Pitt, April 3d, 1804, said: — "I shall continue to address you through Alexander Hope's conveyance, as I remember our friend Bathurst very strongly hinted to me, last year, to beware of the Post-office, when you and I had occasion to correspond on critical points, or in critical times." — *Ibid.*, iv. 145; see also Currie's Life, ii. 160; Stephens' Mem. of Horne Tooke, ii. 118; Court and Cab. of Geo. III., iii. 265, &c.

servation until 1844, when a petition was presented to the House of Commons from four persons, — of whom the notorious Joseph Mazzini was one, — complaining that their letters had been detained at the Post-office, broken open, and read. Sir James Graham, the secretary of state, denied that the letters of three of these persons had been opened; but avowed that the letters of one of them had been detained and opened by his warrant, issued under the authority of a statute.[1] Never had any avowal from a minister encountered so general a tumult of disapprobation. Even Lord Sidmouth's spy-system had escaped more lightly. The public were ignorant of the law, though renewed seven years before,[2] — and wholly unconscious of the practice which it sanctioned. Having believed in the security of the Post-office, they now dreaded the betrayal of all secrecy and confidence. A general system of espionage being suspected, was condemned with just indignation.

Five-and-twenty years earlier, a minister, — secure of a parliamentary majority, — having haughtily defended his own conduct, would have been content to refuse further inquiry and brave public opinion. And in this instance, inquiry was at first successfully resisted;[3] but a few days later, Sir James Graham adopted a course, at once significant of the times, and of his own confidence in the integrity and good faith with which he had discharged a hateful duty. He proposed the appointment of a secret committee, to investigate the law in regard to the opening of letters, and the mode in which it had been exercised.[4] A similar committee was also appointed in the House of Lords.[5] These committees were constituted of the most eminent and impar-

Parliamentary inquiries.

[1] Hans. Deb., 3d Ser., lxxv. 892.

[2] Post-office Act, 1837, 1 Vict. c. 33, § 25.

[3] June 24th, 1844; Mr. Duncombe's motion for a committee — Ayes, 162; Noes, 206. — *Hans. Deb.*, 3d Ser., lxxv. 1264.

[4] July 2d, as an amendment to another motion of Mr. Duncombe; Hans. Deb., 3d Ser., lxxvi. 212.

[5] *Ibid.*, 296.

tial men to be found in Parliament; and their inquiries, while eliciting startling revelations as to the practice, entirely vindicated the personal conduct of Sir James Graham. It appeared that foreign letters had, in early times, been constantly searched to detect correspondence with Rome and other foreign powers: that by orders of both Houses, during the Long Parliament, foreign mails had been searched; and that Cromwell's Postage Act expressly authorized the opening of letters, in order "to discover and prevent dangerous and wicked designs against the peace and welfare of the commonwealth." Charles II. had interdicted, by proclamation, the opening of any letters, except by warrant from the secretary of state. By an act of the 9th Anne, the secretary of state first received statutory power to issue warrants for the opening of letters; and this authority had been continued by several later statutes for the regulation of the Post-office. In 1783, a similar power had been intrusted to the Lord Lieutenant of Ireland.[1] In 1722, several letters of Bishop Atterbury having been opened, copies were produced in evidence against him, on the bill of pains and penalties. During the rebellion of 1745, and at other periods of public danger, letters had been extensively opened. Nor were warrants restricted to the detection of crimes or practices dangerous to the state. They had been constantly issued for the discovery of forgery and other offences, on the application of the parties concerned in the apprehension of offenders. Since the commencement of this century, they had not exceeded an annual average of eight. They had been issued by successive secretaries of state, of every party, and except in periods of unusual disturbance, in about the same annual numbers. The public and private correspondence of the country, both foreign and domestic, practically enjoyed complete security. A power so rarely exercised could not have materially advanced the ends of justice. At the same time, if it were wholly withdrawn, the Post-

[1] 23 & 24 Geo. III. c. 17.

office would become the privileged medium of criminal correspondence. No amendment of the law was recommended;[1] and the secretary of state retains his accustomed authority. But no one can doubt that, if used at all, it will be reserved for extreme occasions, when the safety of the state demands the utmost vigilance of its guardians.

Protection of foreigners.

Nothing has served so much to raise, in other states, the estimation of British liberty, as the protection which our laws afford to foreigners. Our earlier history, indeed, discloses many popular jealousies of strangers settling in this country. But to foreign merchants, special consideration was shown by Magna Charta; and whatever the policy of the state, or the feelings of the people, at later periods, aliens have generally enjoyed the same personal liberty as British subjects, and complete protection from the jealousies and vengeance of foreign powers. It has been a proud distinction for England to afford an inviolable asylum to men of every rank and condition, seeking refuge on her shores, from persecution and danger in their own lands. England was a sanctuary to the Flemish refugees driven forth by the cruelties of Alva; to the Protestant refugees who fled from the persecutions of Louis XIV.; and to the Catholic nobles and priests who sought refuge from the bloody guillotine of revolutionary France. All exiles from their own country, — whether they fled from despotism or democracy, — whether they were kings discrowned, or humble citizens in danger, — have looked to England as their home. Such refugees were safe from the dangers which they had escaped. No solicitation or menace from their own government could disturb their right of asylum; and they were equally free from molestation by the municipal laws of England. The crown indeed had claimed the right of ordering aliens to withdraw from the realm; but this prerogative had not been exercised since the reign of Elizabeth.[2] From

[1] Reports of Secret Committees of Lords and Commons.

[2] Viz., in 1571, 1574, and 1575.

that period, — through civil wars and revolutions, a disputed succession, and treasonable plots against the state, — no foreigners had been disturbed. If guilty of crimes, they were punished; but otherwise enjoyed the full protection of the law.

Alien Act, 1793.

It was not until 1793, that a departure from this generous policy was deemed necessary, in the interests of the state. The revolution in France had driven hosts of political refugees to our shores.[1] They were pitied, and would be welcome. But among the foreigners claiming our hospitality, Jacobin emissaries were suspected of conspiring with democratic associations in England, to overthrow the government. To guard against the machinations of such men, ministers sought extraordinary powers for the supervision of aliens, and, if necessary, for their removal from the realm. Whether this latter power might be exercised by the crown, or had fallen into desuetude, became a subject of controversy; but however that might be, the provisions of the Alien Bill, now proposed, far exceeded the limits of any ancient prerogative. An account was to be taken of all foreigners arriving at the several ports, who were to bring no arms or ammunition: they were not to travel without passports: the secretary of state might remove any suspected alien out of the realm; and all aliens might be directed to reside in such districts as were deemed necessary for public security, where they would be registered, and required to give up their arms. Such restraints upon foreigners were novel, and wholly inconsistent with the free and liberal spirit with which they had been hitherto entertained. Marked with extreme jealousy and rigor, they could only be justified by the extraordinary exigency of the times. They were, indeed, equivalent to a suspension of the Habeas Corpus Act, and demanded proofs of public danger no less conclusive. In opposition to the measure, it was said that there

[1] In Dec., 1792, it appeared that 8000 had emigrated to England. — *Annual Hist.*, xxx. 147.

was no evidence of the presence of dangerous aliens: that discretionary power to be intrusted to the executive might be abused; and that it formed part of the policy of ministers to foment the public apprehensions. But the right of the state, on sufficient grounds, to take such precautions, could not be disputed.[1] The bill was to continue in force for one year only,[2] and was passed without difficulty.

So urgent was deemed the danger of free intercourse with the continent at this period, that even British subjects were made liable to unprecedented restraints, by the Traitorous Correspondence Bill.[3] Traitorous Correspondence Bill, 1793.

The Alien Bill was renewed from time to time; and throughout the war, foreigners continued under strict surveillance. When peace was at length restored, government relaxed the more stringent provisions of the war alien bills; and proposed measures better suited to a time of peace. This was done in 1802, and again in 1814. But, in 1816, when public tranquillity prevailed throughout Europe, the propriety of continuing such measures, even in a modified form, was strenuously contested.[4] Alien Bill renewed.

Again, in 1818, opposition no less resolute was offered to the renewal of the Alien Bill. Ministers were urged to revert to the liberal policy of former times; and not to insist further upon jealous restrictions and invidious powers. The hardships which foreigners might suffer from sudden banishment were especially dwelt upon. Men who had made England their home, — bound to it by domestic ties and affections, and carrying on trade under protection of its laws, — were liable, without proof of crime, on secret information, and by a clandestine procedure, to one of the gravest punishments.[5] This power, however, was rarely Alien Bill, 1818.

[1] Parl. Hist., xxx. 155–238.
[2] 33 Geo. III. c. 4.
[3] Parl. Hist., xxx. 582, 928.
[4] Hans. Deb., 1st Ser., xxxiv. 430, 617.
[5] *Ibid.*, xxxviii. 521, 735, 811, &c.; 58 Geo. III. c. 96.

exercised, and in a few years was surrendered.[1] During the political convulsions of the continent in 1848, the executive again received authority, for a limited time, to remove any foreigners who might be dangerous to the peace of the country;[2] but it was not put in force in a single instance.[3] The law has still required the registration of aliens;[4] but its execution has fallen more and more into disuse. The confidence of our policy, and the prodigious intercourse developed by facilities of communication and the demands of commerce, have practically restored to foreigners that entire freedom which they enjoyed before the French Revolution.

Naturalization Act, 1844.

The improved feeling of Parliament in regard to foreigners was marked in 1844 by Mr. Hutt's wise and liberal measure for the naturalization of aliens.[5] Confidence succeeded to jealousy; and the legislature, instead of devising impediments and restraints, offered welcome and citizenship.

Right of asylum never impaired.

While the law had provided for the removal of aliens, it was for the safety of England, — not for the satisfaction of other states. The right of asylum was as inviolable as ever. It was not for foreign governments to dictate to England the conditions on which aliens under her protection should be treated. Of this principle, the events of 1802 offered a remarkable illustration.

Napoleon's demands in 1802.

During the short peace succeeding the treaty of Amiens, Napoleon, First Consul of the French Republic, demanded that our government should "remove out of the British dominions all the French princes and their adherents, together with the bishops and other individuals, whose political principles and conduct must necessarily occasion great jealousy to the French Government."[6]

[1] In 1826: 5 Geo. IV. c. 37; Hans. Deb., 2d Ser., x. 1376.

[2] 11 & 12 Vict. c. 20.

[3] Parl. Return, 1850 (688).

[4] 7 Geo. IV. c. 54; 6 & 7 Will. IV. c. 11.

[5] 7 & 8 Vict. c. 66; 10 & 11 Vict. c. 83.

[6] Mr. Merry to Lord Hawkesbury, June 4th, 1802; Parl. Hist., xxx 1263

To this demand Lord Hawkesbury replied, his Majesty "certainly expects that all foreigners who may reside within his dominions should not only hold a conduct conformable to the laws of the country, but should abstain from all acts which may be hostile to the government of any country, with which his Majesty may be at peace. As long, however, as they conduct themselves according to these principles, his Majesty would feel it inconsistent with his dignity, with his honor, and with the common laws of hospitality, to deprive them of that protection which individuals, resident in his dominions, can only forfeit by their own misconduct."[1]

Still more decidedly were these demands reiterated. It was demanded, 1st. That more effectual measures should be adopted for the suppression of seditious publications. 2d. That certain persons named should be sent out of Jersey. 3d. "That the former bishops of Arras and St. Pol de Leon, and all those who, like them, under the pretext of religion, seek to raise disturbances in the interior of France, shall likewise be sent away." 4th. That Georges and his adherents shall be transported to Canada. 5th. That the princes of the House of Bourbon be recommended to repair to Warsaw, the residence of the head of their family. 6th. That French emigrants, wearing orders and decorations of the ancient government of France, should be required to leave England. These demands assumed to be based upon a construction of the recent treaty of Amiens; and effect was expected to be given to them, under the provisions of the Alien Act.[2]

These representations were frankly and boldly met. For the repression of seditious writings, our government would entertain no measure but an appeal to the courts of law.[3] To apply the Alien Act in aid of the law of libel, and to send foreign writers out of

Reply of the English Government.

[1] Lord Hawkesbury to Mr. Merry, 10th June, 1802.
[2] M. Otto to Lord Hawkesbury, Aug. 17th, 1802.
[3] See *supra*, p. 177.

the country, because they were obnoxious, not to our own government, but to another, was not to be listened to.

The removal of other French emigrants, and especially of the princes of the House of Bourbon, was refused, and every argument and precedent adduced in support of the demand refuted.[1] The emigrants in Jersey had already removed of their own accord; and the bishops would be required to leave England, if it could be proved that they had been distributing papers on the coast of France, in order to disturb the government; but sufficient proof of this charge must be given. As regards M. Georges, who had been concerned in circulating papers hostile to the government in France, his Majesty agreed to remove him from our European dominions. The king refused to withdraw the rights of hospitality from the French princes, unless it could be proved that they were attempting to disturb the peace between the two countries. He also declined to adopt the harsh measure which had been demanded against refugees who continued to wear French decorations.[2]

Principles on which foreigners are protected.

The ground here taken has been since maintained. It is not enough that the presence or acts of a foreigner may be displeasing to a foreign power. If that rule were accepted, where would be the right of asylum? The refugee would be followed by the vengeance of his own government, and driven forth from the home he had chosen in a free country. On this point, Englishmen have been chivalrously sensitive. Having undertaken to protect the stranger, they have resented any menace to him, as an insult to themselves. Disaffection to the rulers of his own country is natural to a refugee: his banishmen attests it. Poles hated Russia: Hungarians and Italians were hostile to Austria: French Royalists spurned the republic and the first empire: Charles X. and Louis Napoleon were disaffected to Louis Philippe, King of the French: le-

[1] Mr. Merry to Lord Hawkesbury, June 17th, 1802.
[2] Lord Hawkesbury to Mr. Merry, Aug. 28th, 1802.

gitimists and Orleanists alike abhorred the French republic of 1848 and the revived empire of 1852. But all were safe under the broad shield of England. Every political sentiment, every discussion short of libel, enjoyed freedom. Every act not prohibited by law, — however distasteful to other states, — was entitled to protection. Nay, more: large numbers of refugees, obnoxious to their own rulers, were maintained by the liberality of the English government.

The Orsini conspiracy, 1858.

This generosity has sometimes been abused by aliens who, under cover of our laws, have plotted against friendly states. There are acts, indeed, which the laws could only have tolerated by an oversight; and in this category was that of conspiracy to assassinate the sovereign of a friendly state. The horrible conspiracy of Orsini, in 1858, had been plotted in England. Not countermined by espionage, nor checked by jealous restraints on personal liberty, it had been matured in safety; and its more overt acts had afterwards escaped the vigilance of the police in France. The crime was execrated; but how could its secret conception have been prevented? So far our laws were blameless. The government of France, however, in the excitement of recent danger, angrily remonstrated against the alleged impunity of assassins in this country.[1] Englishmen repudiated, with just indignation, any tolerance of murder. Yet on one point were our laws at fault. Orsini's desperate crime was unexampled: planned in England, it had been executed beyond the limits of British jurisdiction: it was doubtful if his confederates could be brought to justice; and certain that they would escape without adequate punishment. Ministers, believing it due, no less to France than to the vindication of our own laws, that this anomaly should be corrected, proposed a measure, with that object, to Parliament. But the Commons, resenting imputations upon this country, which had not yet been repelled; and jealous of the apparent dictation of France,

Conspiracy to murder bill, Feb. 8th, 1858.

[1] Despatch of Count Walewski, Jan. 20th, 1858.

under which they were called upon to legislate, refused to entertain the bill.[1] A powerful ministry was struck down; and a rupture hazarded with the Emperor of the French. Yet to the measure itself, apart from the circumstances under which it was offered, no valid objection could be raised; and three years later, its provisions were silently admitted to a place in our revised criminal laws.[2]

Extradition treaties.

A just protection of political refugees is not incompatible with the surrender of criminals. All nations have a common interest in the punishment of heinous crimes; and upon this principle, has England entered into extradition treaties with France and the United States of America, for mutually delivering up to justice persons charged with murder, piracy, arson, or forgery, committed within the jurisdiction of either of the contracting states.[3] England offers no asylum to such criminals; and her own jurisdiction has been vastly extended over offenders escaping from justice. It is a wise policy, — conducive to the comity of civilized nations.

[1] Mr. Milner Gibson's amendment on second reading. — *Hans. Deb.*, 3d Ser., cxlviii. 1742, &c.

[2] 24 & 25 Vict. c. 100, § 4.

[3] Treaty with France, 1843, confirmed by 6 & 7 Vict. c. 75; treaty with United States, 1842, confirmed by 6 & 7 Vict. c. 76. Provisions to the same effect had been comprised in the treaty of Amiens; and also in a treaty with the United States in 1794. — *Phillimore, Int. Law*, i. 427; Hans Deb., 3d Ser., lxx. 1325; lxxi. 564.

CHAPTER XII.

Relations of the Church to Political History: — Leading Incidents and Consequences of the Reformation in England, Scotland, and Ireland: — Exaction of Conformity with the State Church: — Sketch of the Penal Code against Roman Catholics and Nonconformists: — State of the Church and other Religious Bodies on the Accession of George III.: — Gradual Relaxation of the Penal Code: — History of Catholic Claims prior to the Regency.

In the sixteenth century, the history of the church is the history of England. In the seventeenth century, the relations of the church to the state and society contributed, with political causes, to convulse the kingdom with civil wars and revolutions. And in later and more settled times, they formed no inconsiderable part of the political annals of the country. The struggles, the controversies, the polity, and the laws of one age, are the inheritance of another. Henry VIII. and Elizabeth bequeathed to their successors ecclesiastical strifes which have disturbed every subsequent reign; and, after three centuries, the results of the Reformation have not yet been fully developed.

Relations of the church to political history.

A brief review of the leading incidents and consequences of that momentous event will serve to elucidate the later history of the church and other religious bodies, in their relations to the state.

The church before the Reformation.

For centuries, the Catholic church had been at once the church of the state and the church of the people. All the subjects of the crown acknowledged her authority, accepted her doctrines, participated in her offices, and worshipped at her consecrated shrines. In her relations to the state she approached the ideal of Hooker, wherein the church and the commonwealth were identified: no one being a member of

the one, who was not also a member of the other.[1] But under the shadow of this majestic unity grew ignorance, errors, superstition, imperious authority and pretensions, excessive wealth, and scandalous corruption. Freedom of thought was proscribed. To doubt the infallible judgment of the church was heresy, — a mortal sin, for which the atonement was recantation or death. From the time of Wickliffe to the Reformation, heresies and schisms were rife:[2] the authority of the church and the influence of her clergy were gradually impaired; and at length, she was overpowered by the ecclesiastical revolution of Henry VIII. With her supremacy, perished the semblance of religious union in England.

The Reformation.

So vast a change as the Reformation, in the religious faith and habitudes of a people, could not have been effected, at any time, without wide and permanent dissensions. When men were first invited to think, it was not probable that they should think alike. But the time and circumstances of the Reformation were such as to aggravate theological schisms, and to embitter the contentions of religious parties. It was an age in which power was wielded with a rough hand; and the reform of the church was accompanied with plunder and persecution. The confiscation of church property envenomed the religious antipathies of the Catholic clergy: the cruel and capricious rigor with which every communion was, in turn, oppressed, estranged and divided the laity. The changes of faith and policy, — sometimes progressive, sometimes reactionary, — which marked the long and painful throes of the Reformation, from its inception under Henry VIII. to its final consummation under Elizabeth, left no party without its wrongs and sufferings.

[1] Book viii., [2] Keble's Ed., iii. 411. Bishop Gardiner had already expressed the same theory; "the realm and the church consist of the same persons; and as the king is the head of the realm, he must, therefore, be head of the church." — *Gilpin*, ii. 29. — See also *Gladstone's State and Church*, 4th Ed., i. 9–31.

[2] Warner, i. 527; Kennet's Hist., i. 265; Collier's Eccl. Hist., i. 579; Echard's Hist., 159; Burnet's Hist. of the Reformation, i. 27.

Toleration and liberty of conscience were unknown. Catholics and Protestants alike recognized the duty of the state to uphold truth and repress error. In this conviction, reforming prelates concurred with popes and Roman divines. The Reformed church, owing her very life to the right of private judgment, assumed the same authority, in matters of doctrine, as the church of Rome, which pretended to infallibility. Not to accept the doctrines or ceremonies of the state church, for the time being, was a crime; and conformity with the new faith as with the old, was enforced by the dungeon, the scaffold, the gibbet, and the torch.[1]

Toleration unknown.

The Reformed church being at length established under Elizabeth, the policy of her reign demands especial notice. Finding her fair realm distracted by the religious convulsions of the last three reigns, she insisted upon absolute unity. She exacted a strait conformity of doctrine and observance, denied liberty of conscience to all her subjects, and attached civil disabilities to dissent from the state church. By the first act of her reign,[2] the oath of supremacy was required to be taken as a qualification for every ecclesiastical benefice, or civil office under the crown. The act of uniformity,[3] enforced, with severe penalties, conformity with the ritual of the established church, and attendance upon its services. A few years later, the oath of supremacy was, for the first time, required to be taken by every member of the House of Commons.[4]

Policy of Elizabeth.

Civil disabilities.

The Catholics were not only hostile to the state church, but disaffected to the queen herself. They contested her right to the crown; and despairing of the restoration of the ancient faith, or even of toleration, during her life, they plotted against her throne. Hence the Catholic religion was associated with treason;

The Catholic faith associated with treason.

[1] "A prince being God's deputy, ought to punish impieties against God," said Archbishop Cranmer to Edward VI. — *Burnet's Hist.*, i. 111.

[2] 1 Eliz. c. 1. [3] 2 Eliz. c. 2. [4] 5 Eliz. c. 1.

and the measures adopted for its repression were designed as well for the safety of the state, as for the discouragement of an obnoxious faith.[1]

Popish recusants.

To punish Popish recusants, penalties for non-attendance upon the services of the church were multiplied,[2] and enforced with merciless rigor.[3] The Catholic religion was utterly proscribed: its priests were banished, or hiding as traitors:[4] its adherents constrained to attend the services of a church which they spurned as schismatic and heretical.

Doctrinal moderation of the Reformation.

While Catholics were thus proscribed, the ritual and polity of the Reformed church were narrowing the foundations of the Protestant establishment. The doctrinal modifications of the Roman creed were cautious and moderate. The new ritual, founded on that of the Catholic church,[5] was simple, eloquent, and devotional. The patent errors and superstitions of Rome were renounced; but otherwise her doctrines and ceremonies were respected. The extreme tenets of Rome, on the one side, and of Geneva on the other, were avoided. The design of Reformers was to restore the primitive church,[6] rather than to settle controversies already arising among Protestants.[7] Such moderation, — due rather to the predilections of Lutheran Reformers, and the leaning of some of them to the Roman faith, than to a profound policy, — was calculated to secure a wide conformity. The respect shown to the ritual, and many of the observances of the Church of Rome, made

1 13 Eliz. c. 2; Burnet's Hist., ii. 354; Short's Hist. of the Church, 273

2 23 Eliz. c. 1; 29 Eliz. c. 6; 33 Eliz. c. 2; 35 Eliz. c. 1; Strype's Life f Whitgift, 95; Collier's Eccl. Hist., ii. 637; Warner, ii. 287; Kennet's Hist., ii. 497.

3 Lingard, note *u*, viii. 356; Dodd's Church Hist., iii. 75; and Butler's Hist. Mem. of the Catholics, 230.

4 27 Eliz. c. 2.

5 Cardwell's Hist. of the Book of Common Prayer.

6 Bishop Jewel's Apology, ch. vii., Div. 3, c. x., Div. 1, &c.; Short's Hist. of the Church, 238; Mant's Notes to Articles.

7 Lawrence's Bampton Lectures, 237; Short's Hist., 199.

the change of religion less abrupt and violent to the great body of the people. But extreme parties were not to be reconciled. The more faithful Catholics refused to renounce the supremacy of the Pope and other cherished doctrines and traditions of their church. Neither conciliated by concessions, nor coerced by intimidation, they remained true to the ancient faith.

On the other hand, these very concessions to Romanism repelled the Calvinistic Reformers, who spurned every vestige of the Romish ritual, and repudiated the form of church government, which, with the exception of the Papal supremacy, was maintained in its ancient integrity. They condemned every ceremony of the church of Rome as idolatrous and superstitious;[1] they abhorred episcopacy, and favored the Presbyterian form of government in the church. Toleration might have softened the asperities of theological controversy, until time had reconciled many of the differences springing from the Reformation. A few enlightened statesmen would gladly have practised it;[2] but the imperious temper of the queen,[3] and the bigoted zeal of her ruling churchmen, would not suffer the least liberty of conscience. Not even waiting for outward signs of departure from the standard of the church, they jealously enforced subscription to the articles of religion; and addressed searching interrogatories to the clergy, in order to extort confessions of doubt or nonconformity.[4] Even the oath of supremacy, designed to discover Catholics, was also a stum-

The Puritans.

Rigorous enforcement of conformity.

[1] In matters of ceremonial they objected to the wearing of the surplice, the sign of the cross, and the office of sponsors in baptism; the use of the ring in the marriage ceremony, kneeling at the sacrament, the bowing at the name of Jesus, and music in the services of the church. They also objected to the ordination of priests without a call by their flocks. — Heylyn's Hist. of the Presbyterians, 259.

[2] Strype's Life of Whitgift, i. 431.

[3] Elizabeth's policy may be described in her own words: — "She would suppress the papistical religion, that it should not grow: but would root out puritanism, and the favorers thereof." — *Strype's Eccl. Annals*, iv. 242.

[4] Strype's Eccl. Annals, iii. 81; Strype's Life of Whitgift, iii. 106; Fuller's Church Hist., ix. 156; Sparrow, 123.

bling-block to many Puritans. The former denied the queen's supremacy, because they still owned that of the Pope; many of the latter hesitated to acknowledge it, as irreconcilable with their own church polity. One party were known to be disloyal: the other were faithful subjects of the crown. But conformity with the reformed ritual, and attendance upon the services of the church, were enforced against both with indiscriminating rigor.[1] In aiming at unity, the church fostered dissent.

Growth of nonconformity

The early Puritans had no desire to separate from the national church; but were deprived of their benefices, and cast forth by persecution. They sought further to reform her polity and ceremonies, upon the Calvinistic model; and claimed greater latitude in their own conformity. They objected to clerical vestments and other forms, rather than to matters of faith and doctrine; and were slow to form a distinct communion They met secretly for prayer and worship, hoping that truth and pure religion would ultimately prevail in the church, according to their cherished principles, as Protestantism had prevailed over the errors of Rome. The ideal of the Presbyterians was a national church, to which they clung through all their sufferings: but they were driven out, with stripes, from the church of England. The Independents, claiming self-government for each congregation, repelling an ecclesiastical polity, and renouncing all connection with the state, naturally favored secession from the establishment. Separation and isolation were the very foundation of their creed;[2] and before the death of Elizabeth they had spread hemselves widely through the country, being chiefly known

[1] Burnet's Hist. of the Reformation, iii. 587; Short's Hist. of the Church, 306; Strype's Eccl. Annals, iv. 93, *et seq.*; Strype's Parker, 155, 225; Strype's Grindal, 99.

[2] Heylyn's Hist. of the Presbyterians, lib. vi.–x.; Neal's Hist. of the Puritans, i. ch. iv., &c.; Bogue and Bennett's Hist. of Dissenters, Intr. 58–65; i. 109–140; Price's Hist. of Nonconformity; Conder's View of all Religions.

as Brownists.[1] Protestant nonconformity had taken root in the land; and its growth was momentous to the future destinies of church and state.

Close connection of the Reformed church with the state.

While the Reformed church lost from her fold considerable numbers of the people, her connection with the state was far more intimate than that of the church of Rome. There was no longer a divided authority. The crown was supreme in church and state alike. The Reformed church was the creation of Parliament: her polity and ritual, and even her doctrines, were prescribed by statutes. She could lay no claim to ecclesiastical independence. Convocation was restrained from exercising any of its functions without the king's license.[2] No canons had force without his assent; and even the subsidies granted by the clergy, in convocation, were henceforward confirmed by Parliament. Bishops, dignitaries and clergy looked up to the crown, as the only source of power within the realm. Laymen administered justice in the ecclesiastical courts; and expounded the doctrines of the church. Lay patronage placed the greater part of the benefices at the disposal of the crown, the barons, and the landowners. The constitution of the church was identified with that of the state; and their union was political as well as religious. The church leaned to the government, rather than to the people; and, on her side, became a powerful auxiliary in maintaining the ascendency of the crown, and the aristocracy. The union of ecclesiastical supremacy with prerogatives, already excessive, dangerously enlarged the power of the crown over the civil and religious liberties of the people. Authority had too strong a fulcrum; and threatened the realm with absolute subjection; but the wrongs of Puritans provoked a spirit of resistance, which eventually won for Englishmen a surer freedom.

Meanwhile, the Reformation had taken a different course

[1] The act 35 Eliz. c. 1, was passed to suppress them.

[2] 25 Hen. VIII. c. 19; Froude's Hist., ii. 193–198, 325, iv. 479.

in Scotland. The Calvinists had triumphed. They had overthrown episcopacy, and established a Presbyterian church upon their own cherished model.[1] Their creed and polity suited the tastes of the people, and were accepted with enthusiasm. The Catholic faith was renounced everywhere but in some parts of the Highlands; and the Reformed establishment at once assumed the comprehensive character of a national church. But while supported by the people, it was in constant antagonism to the state. Its rulers repudiated the supremacy of the crown:[2] resisted the jurisdiction of the civil courts;[3] and set up pretensions to spiritual authority and independence, not unworthy of the church they had lately overthrown.[4] They would not suffer temporal power to intrude upon the spiritual church of Christ.[5]

Reformation in Scotland.

The constitution of the Scottish church was republican; her power at once spiritual and popular. Instead of being governed by courtly prelates and an impotent convocation, she was represented by the general assembly, — an ecclesiastical parliament of wide jurisdiction, little controlled by the civil power. The leaders of that

The church of Scotland.

[1] 1560–1592. — The events of this period are amply illustrated in Spottiswood's Hist. of the Church of Scotland; M'Crie's Lives of Knox and Melville; Knox's Hist. of the Reformation; Robertson's Hist. of Scotland; Tytler's Hist. of Scotland; Cook's Hist. of the Reformation in Scotland; Cunningham's Church Hist., i. 351; Row's Hist. of the Kirk of Scotland; Stephen's Hist. of the Church of Scotland; Buckle's Hist., ii. ch. 3.

[2] In the Book of Polity, it is laid down that "the power ecclesiastical flows immediately from God and the Mediator Jesus Christ, and is spiritual, not having a temporal head on earth, but only Christ, the only spiritual governor and head of his kirk."

[3] Cunningham's Church Hist., 535; Calderwood's Hist., v. 457–460, 475; Spottiswood's Hist., iii. 21; Tytler's Hist., vii. 326.

[4] Mr. Cunningham, comparing the churches of Rome and Scotland, says: — "With both there has been the same union and energy of action, the same assumption of spiritual supremacy, the same defiance of law courts, parliaments, and kings." — *Pref. to Church Hist. of Scotland.*

[5] "When the church was Roman, it was the duty of the magistrate to reform it. When the church was Protestant, it was impiety in the magistrate to touch it." — *Cunningham's Church Hist.*, i. 537.

assembly were bold and earnest men, with high notions of ecclesiastical authority, a democratic temper, and habitual reliance upon popular support. A church so constituted was, indeed, endowed and acknowledged by the state; but was more likely to withstand the power of the crown and aristocracy, than to uphold it.

Her connection with the State.

The formal connection of the church with the state was, nevertheless, maintained with scarcely less strictness than in England. The new establishment was the work of the legislature: the Protestant religion was originally adopted: the church's confession of faith ratified; and the entire Presbyterian polity established by statute.[1] And further, the crown was represented in her assembly by the Lord High Commissioner.

Reformation in Ireland.

The Reformation had also been extended to Ireland: but in a manner the most extraordinary and exceptional. In England and Scotland, the clergy and people had unquestionably been predisposed to changes in the Catholic church; and the reforms effected were more or less the expression of the national will. But in Ireland, the Reformation was forced upon an unyielding priesthood, and a half-conquered people. The priests were driven from their churches and homes, by ministers of the new faith, — generally Englishmen or strangers, — who were ignorant of the language of their flocks, and indifferent to their conversion or teaching. Conformity was exacted in obedience to the law, and under severe penalties: not sought by appeals to the reason and conscience of a subject race. Who can wonder that the Reformation never took root in Ireland? It was accepted by the majority of the English colonists; but many who abjured the Catholic faith, declined to join the new establishment, and founded Presbyterian communions of their own. The Reformation added a new element of discord between the colonists and the natives: embittered the chronic discontents against the government; and founded a

[1] Scots Acts, 1560; 1567, c. 4, 6, 7, 1592, c. 116; *Ibid.*, 1690, c. 5, 23.

foreign church, with few communicants, in the midst of a hostile and rebellious people. It was a state church: but, in no sense, the church of the nation.[1]

The three churches under James I.

Such having been the results of the Reformation, the accession of James united the three crowns of these realms; and what were his relations to the church? In England, he was the head of a state church, environed by formidable bodies of Catholics and Puritans. In Scotland, a Presbyterian church had been founded upon the model approved by English Puritans. In Ireland, he was the head of a church maintained by the sword. This incongruous heritage, unwisely used, brought ruin on his royal house. Reared among a Presbyterian people, he vexed the English Puritans with a more rigorous conformity; and spurning the religion of his own countrymen, forced upon them a hated episcopacy, the supremacy of the crown, and observances repugnant to their creed. No less intolerant of his own mother's church, he hastened to aggravate the penalties against Popish recusants. Such was his rancor that he denied them the right of educating their children in the Catholic faith.[2] The laws against them were also enforced with renewed severity.[3] The monstrous plot of Guy Fawkes naturally incensed Parliament and the people against the whole body of Catholics, whose religion was still associated with imminent danger to the state; and again were treason and Popery scourged with the same rod. Further penalties were imposed on Popish recusants, not attending the services and sacraments of the church; and a new oath of allegiance was devised to test their loyalty.[4] In Ireland, Catholic priests were banished by proclamation; and the laws rigorously enforced against the laity

[1] Leland's Hist., ii. 165, 224, &c.; Lanigan's Eccl. Hist., iv. 207, &c.; Mant's Hist. of the Church of Ireland, i. ch. 2, 3, 4; Goldwin Smith's Irish History and Irish Character, 83, 88, 92, 100.

[2] 1 Jac. I. c. 4.

[3] Lingard's Hist., ix. 41, 55.

[4] 3 Jac. I. c. 4, 5.

who absented themselves from Protestant worship. The king's only claim upon the favor of the Puritans was his persecution of Papists; and this he suddenly renounced. In compliance with engagements entered into with foreign powers, he began openly to tolerate the Catholics; and granted a pardon to all who had incurred the penalties of recusancy. The breach was ever widening between the Puritans and the throne; and while the monarch was asserting the divine right of kings, his bishops were exalting prelacy, and bringing the Reformed church nearer to the Romish model.

Relations of Charles I. with Catholics and Puritans.

Charles continued to extend an indulgence to Catholics, at once offensive to the Puritan party, and in violation of laws which his prerogative could not rightfully suspend. Even the toleration of the Stuarts, like their rigor, was beyond the law. The prerogatives and supremacy of the crown were alike abused. Favoring absolutism in the state and domination in the church, Charles found congenial instruments of tyranny in the Star Chamber and High Commission, — in Strafford and in Laud. In England he oppressed Puritans: in Scotland he introduced a high church liturgy, which provoked rebellion. Arbitrary rule in church and state completed the alienation of the Puritan party; and their enmity was fatal. The church was overthrown; and a republican commonwealth established on the ruins of the monarchy. The polity of the Reformation was riven, as by a thunderbolt.

Religion under the Commonwealth.

The Commonwealth was generally favorable to religious liberty. The intolerance of Presbyterians, indeed, was fanatical.[1] In the words of Milton, "new Presbyter was but old Priest, — writ large." Had

[1] Life of Baxter, 103. Their clergy in London protested against toleration to the Westminster Assembly, Dec. 18th, 1645, saying, "we cannot dissemble how we detest and abhor this much endeavored toleration." — *Price's Hist. of Nonconformity*, ii. 329. Edwards, a Presbyterian minister, denounced toleration as "the grand design of the devil," and "the most ready, compendious, and sure way to destroy all religion," — "all the devils in hell and their instruments being at work to promote it." — *Gangræna*, part i. 58.

they been suffered to exercise uncontrolled dominion, they would have rivalled Laud himself in persecution. But Cromwell guaranteed freedom of worship to all except Papists and Prelatists; declaring "that none be compelled to conform to the public religion, by penalties or otherwise."[1] Such was his policy as a statesman and an Independent.[2] He extended toleration even to the Jews.[3] Yet was he sometimes led, by political causes, to put his iron heel upon the bishops and clergy of the Church of England, upon Roman Catholics, and even upon Presbyterians.[4] The church party and Roman Catholics had fought for the king in the civil war; and the hands of churchmen and Puritans were red with each others' blood. To religious rancor was added the vengeance of enemies on the battle-field.

Presbyterians in Scotland.

Before the king's fall, he had been forced to restore the Presbyterian polity to Scotland;[5] and the Covenanters, in a furious spirit of fanaticism, avenged upon Episcopalians the wrongs which their cause had suffered in the last two reigns. Every age brought new discords; and religious differences commingled with civil strifes.

Puritans under Charles II.

After the Restoration, Roundheads could expect no mercy from Cavaliers and churchmen. They were spurned as dissenters and republicans. While in the ascendant, their gloomy fanaticism and joyless

[1] Whitelock's Mem., 499, 576, 614; Neal's Hist. of the Puritans, iv. 28, 138, 338, &c.

[2] Hume affirms, somewhat too broadly, that "of all the Christian sects this was the first which, during its prosperity as well as its adversity, always adopted the principles of toleration. — Hist., v. 168. See also Neal's Hist. of the Puritans, ii. 98; iv. 144; Collier, 829; Hallam's Const. Hist., i. 621; Short's Hist., 425; Brook's Hist. of Religious Liberty, i. 504, 513–528.

[3] Bate's Elen., part ii 211.

[4] Lord Clarendon's Hist., vii. 253, 254; Baxter's Life, i. 64; Kennet's Hist., iii. 206; Neal's Hist. of the Puritans, iv. 39, 122, 138, 144; Hume's Hist., v. 368; Butler's Rom. Cath., ii. 407; Parr's Life of Archbishop Usher; Rushworth, vii. 308, &c.

[5] In 1641.

discipline had outraged the natural sentiments and taste of the people, and there was now a strong reaction against them. And first the church herself was to be purged of Puritans. Their consciences were tried by a new Act of Uniformity, which drove forth two thousand of her clergy, and further recruited the ranks of Protestant nonconformists.[1] This measure, fruitful of future danger to the church, was followed by a rigorous code of laws, proscribing freedom of worship, and multiplying civil disabilities as penalties for dissent.

Oppressive laws of this reign.

By the Corporation Act, no one could be elected to a corporate office who had not taken the sacrament within the year.[2] By another Act, no one could serve as a vestryman, unless he made a declaration against taking up arms and the covenant, and engaged to conform to the Liturgy.[3] The Five Mile Act prohibited any nonconformist minister from coming within five miles of a corporate town; and all nonconformists, whether lay or clerical, from teaching in any public or private school.[4] The monstrous Conventicle Act punished attendance at meetings of more than five persons, in any house, for religious worship, with imprisonment and transportation.[5] This, again, was succeeded by a new test, by which the clergy were required to swear that it was not lawful, on any pretence whatever, to take up arms against the king.[6] This test, conceived in the spirit of the high church, touched the consciences of none but the Calvinistic clergy, many of whom refused to take it, and further swelled the ranks of dissent.

Persecution of nonconformists.

While the foundations of the church were narrowed by such laws as these, nonconformists were pursued by incessant persecutions. Eight thousand Prot-

[1] 13 & 14 Car. II. c. 4. Calamy's Nonconformist's Memorial, Intr. 31 &c.; Baxter's Life and Times, by Calamy, i. 181.

[2] 13 Car. II. stat. 2, c. 1.

[3] 15 Car. II. c. 5.

[4] 13 & 14 Car. II. c 4.

[5] 16 Car. II. c. 4, continued and amended by 22 Car. II. c. 1.

[6] 17 Car. II. c. 2.

estants are said to have been imprisoned, besides great numbers of Catholics.[1] Fifteen hundred Quakers were confined: of whom three hundred and fifty died in prison.[2] During this reign, indeed, several attempts were made to effect a reconciliation between the church and nonconformists;[3] but the irreconcilable differences of the two parties, the unyielding disposition of churchmen, and the impracticable temper of nonconformists, forbade the success of any scheme of comprehension.

Attempts at comprehension.

Nonconformists having been discouraged at the beginning of this reign, Catholics provoked repression at the end. In 1673, Parliament, impelled by apprehensions for the Protestant religion and civil liberties of the people, passed the celebrated Test Act.[4] Designed to exclude Roman Catholic ministers from the king's councils, its provisions yet embraced Protestant nonconformists. That body, for the sake of averting a danger common to all Protestants, joined the church in supporting a measure fraught with evil to themselves. They were, indeed, promised further indulgence in the exercise of their religion, and even an exemption from the Test Act itself; but the church party, having secured them in its toils, was in no haste to release them.[5]

The Catholics under Charles II.

The Church of Scotland fared worse than the English nonconformists, after the Restoration. Episcopacy was restored: the king's supremacy reasserted: the entire polity of the church overthrown;[6]

Church of Scotland after Restoration.

[1] Delaune's Plea for Nonconformists, preface; Short's Hist., 559. Oldmixon goes so far as to estimate the total number who suffered on account of their religion, during this reign, at 60,000! — History of the Stuarts, 715.

[2] Neal's Hist. of the Puritans, v. 17.

[3] The Savoy Conference, 1661; Baxter's Life and Times, i. 139; Burnet's Own Time, i. 309; Collier's Church Hist., ii. 879; Perry's Hist., ii. 317. In 1669; Baxter's Life, iii. 23; Burnet's Own Time, i. 439; Scheme of Tillotson and Stillingfleet, 1674; Burnet's Life of Tillotson, 42.

[4] 25 Car. II. c. 2.

[5] Kennet's Hist., iii. 294; Burnet's Own Time, i. 348, 516.

[6] Scots Acts, 1661, c. 11; 1669, c. 1; 1681, c. 6; Wodrow's Church Hist., i. 190.

while the wrongs of Episcopalians, under the Commonwealth, were avenged, with barbarous cruelty, upon Presbyterians.[1]

The Protestant faith and civil liberties of the people being threatened by James II., all classes of Protestants combined to expel him from his throne. Again the nonconformists united with the church, to resist a common danger. They were not even conciliated by his declarations of liberty of conscience and indulgence, in which they perceived a stretch of prerogative and a dangerous leaning towards the Catholic faith, under the guise of religious freedom. The revolution was not less Protestant than political; and Catholics were thrust further than ever beyond the pale of the constitution.

Union of church and dissenters against James II.

The recent services of dissenters to the church and the Protestant cause, were rewarded by the Toleration Act.[2] This celebrated measure repealed none of the statutes exacting conformity with the Church of England; but exempted all persons from penalties, on taking the oath of allegiance and supremacy, and subscribing a declaration against transubstantiation. It relieved dissenting ministers from the restrictions imposed by the Act of Uniformity and the Conventicle Act upon the administration of the sacrament and preaching in meetings; but required them to subscribe the thirty-nine articles, with some exceptions.[3] The dissenting chapels were to be registered; and their congregations protected from any molestation. A still easier indulgence was given to the Quakers; but toleration was withheld from Roman Catholics and Unitarians, who found no favor either with the church or nonconformists.

The Toleration act.

The Toleration Act, whatever its shortcomings, was at

[1] Wodrow's Church Hist., i. 57, 236, 390, &c.; Burnet's Own Time, i. 365, ii. 416, &c.; Crookshank's Hist., i. 154, 204, &c.; Buckle's Hist., ii. 281–292; Cunningham's Ch. Hist., ii. ch. i.–vi.

[2] 1 Gul. & Mar., c. 8; Bogue and Bennett's Hist. of Dissenters i. 187–204.

[3] All "except three and part of a fourth."

Right of public worship conceded.

least the first recognition of the right of public worship, beyond the pale of the state church. It was the great charter of dissent. Far from granting religious liberty, it yet gave indulgence and security from perseeution.

Further measures against Unitarians and Catholics.

The age was not ripe for wider principles of toleration. Catholics and Unitarians were soon afterwards pursued with severer penalties;[1] and in 1700, the intolerant spirit of Parliament was displayed by an Act against the former, which cannot be read without astonishment. It offered a reward of 100*l.* for the discovery of any Catholic priest performing the offices of his church: it incapacitated every Roman Catholic from inheriting or purchasing land, unless he abjured his religion upon oath; and on his refusal, it vested his property during his life in his next of kin, being a Protestant. He was even prohibited from sending his children abroad, to be educated in his own faith.[2] And while his religion was thus proscribed, his civil rights were further restrained by the oath of abjuration.[3]

Scheme of comprehension under William III.

Again the policy of comprehension was favored by William III.: but it was too late. The church was far too strong to be willing to sacrifice her own convictions to the scruples of nonconformists. Nor was she forgetful of her own wrongs under the Commonwealth, or insensible to the sufferings of Episcopalians in Scotland. On the other side, the nonconformists, confirmed in their repugnance to the doctrines and ceremonies of the church by the persecutions of a hundred and fifty years, were not to be tempted by small concessions to their consciences, or by the doubtful prospects of preferment in an establishment from which they could expect little favor.[4]

[1] 1 Will. & M. c. 9, 15, 26; 9 & 10 Will. III. c. 32.

[2] 11 & 12 Will. III. c. 4; Butler's Hist. Mem. of the Catholics, iii. 134–138, 279.

[3] 13 Will. III. c. 6.

[4] D'Oyley's Life of Sancroft, 327, 520; Burnet's Own Time, ii. 1033.

To the Church of Scotland the Revolution brought freedom and favor. The king's supremacy was finally renounced; Episcopacy, against which she had vainly struggled for a hundred years, forever abolished; her confession of faith recognized by statute; and the Presbyterian polity confirmed.[1] But William III., in restoring the privileges of the church, endeavored to impress upon her rulers his own moderation and tolerant spirit. Fearing the persecution of Episcopalians at their hands, he wrote thus nobly and wisely to the General Assembly: "We expect that your management shall be such that we may have no reason to repent what we have done. We never could be of the mind that violence was suited to the advancing of true religion: nor do we intend that our authority shall ever be a tool to the irregular passions of any party."[2] And not many years afterwards, when Presbyterian Scotland was united to Episcopalian England, the rights of her church, in worship, discipline, and government, were confirmed and declared unalterable.[3]

Church of Scotland after the Revolution.

To the Catholics of Ireland, the reign of William was made terrible by new rigors and oppression. They were in arms for the exiled king; and again was their faith the symbol of rebellion. Overcome by the sword, they were condemned to proscription and outlawry

Catholics of Ireland under William III.

It was long before Catholics were to enjoy indulgence In 1711, a proclamation was published for enforcing the penal laws against them in England.[4] And in Ireland, the severities of former reigns were aggravated by Acts of Queen Anne.[5] After the rebellion of 1715, Parliament endeavored to strengthen the Protestant interest, by enforcing the laws against Papists.[6]

Catholics under Anne, Geo. I. & II.

&c; Kennet's Hist., iii. 483, 551, *et seq.*; Lord Macaulay's Hist., iii. 89, 488-495; Bogue and Bennett's Hist., i. 207.

[1] Scots Acts, 1689, c. 2; 1690, c. 5; 1692, c. 117.

[2] Lord Macaulay's Hist., iii. 708.

[3] Act of Union, 5 Anne, c. 8; Scots Acts, 1705, c. 4; 1706, c. 7.

[4] Boyce's Reign of Queen Anne, 429, &c.

[5] 2 Anne, c. 3, 6; 8 Anne, c. 3.

[6] 1 Geo. I. c. 55.

Again, in 1722, the estates of Roman Catholics and nonjurors were made to bear a special financial burden, not charged upon other property.[1] And, lastly, the rebellion of 1745 called forth a proclamation, in the spirit of earlier times, offering a reward of 100*l.* for the discovery of Jesuits and popish priests, and calling upon magistrates to bring them to justice.

Nonconformists under Anne, Geo. I. & II.

Much of the toleration which had been conceded to Protestant nonconformists at the Revolution, was again withdrawn during the four last years of Queen Anne. Having found their way into many offices, by taking the sacrament, an Act was passed, in 1711, against occasional conformity, by which dissenters were dispossessed of their employments, and more rigorously disqualified in future.[2] Again were nonconformists repelled, with contumely, from honorable fellowship with the state. Two years afterwards the Schism Bill was passed, prohibiting the exercise of the vocation of schoolmaster or private teacher, without a declaration of conformity, and a license from a bishop.[3] Both these statutes, however, were repealed in the following reign.[4] With the reign of George II. a wider toleration was commenced, in another form. The time was not yet come for repealing the laws imposing civil disabilities upon dissenters; but annual Acts of Indemnity were passed, by which persons who had failed to qualify themselves for office were protected.[5]

State of the church and religion on the accession of George III.

The reign of George III. opened under circumstances favorable to religious liberty. The intolerant spirit of the high church party had been broken since the death of Anne. The frenzies of Sacheverell and Atterbury had yielded to the liberal philoso-

[1] 9 Geo. I. c. 18; Parl. Hist., viii. 51, 353.

[2] 10 Anne, c. 2; Burnet's Own Time, ii. 364, 585, &c.; Bogue and Bennett's Hist., i. 228, 262.

[3] 12 Anne, c. 7; Parl. Hist., vi. 1349; Bogue and Bennett's Hist., 268.

[4] 5 Geo. I. c. 4.

[5] The first of these Acts was in 1727; 1 Geo. II. c. 23. Hallam's Const. Hist., ii. 412.

phy of Milton and Locke, of Jeremy Taylor, Hoadley, Warburton, Montesquieu. The angry disputations of convocation were silenced. The church was at peace; and the state had ceased to distrust either Roman Catholics or nonconformists. Never since the Reformation, had any monarch succeeded to the throne, at a period so free from religious discords and embarrassments. In former reigns, high churchmen had been tainted with Jacobite sympathies: now all parties vied in attachment and loyalty. Once more the church was wholly with the king; and added all her weight to the influence of the crown. Many English Catholics, crushed by persecution and losing hopes of the restoration of their own faith, had gradually conformed to a church, already beginning to boast a certain antiquity, enshrined in the ancient temples of their forefathers, respecting their traditions, allied to the state, and enjoying the power, wealth, fashion, and popularity of a national establishment. Some of this body had been implicated in both the Jacobite rebellions; but their numbers had ceased to be formidable; and they were now universally well-disposed and loyal.[1] The dissenters had been uniformly attached to the House of Hanover; and, having ceased to be oppressed, quietly prospered, without offence to the church. The old nonconformist bodies, — the offspring of the Reformation and the Act of Uniformity, — so far from making progress, had declined in numbers and activity, since the time of William III.[2] There had been little religious zeal, either within or without the church. It was an age of spiritual indifference and leth-

[1] In 1767, there appeared to have been no more than 67,916; and, in 1780, 69,376. They had 200 chapels. — Census, 1851: Report on Religious Worship, ci. In 1696, out of 2,599,786 freeholders in England and Wales, there had been 13,856 Catholics. — *Ibid.*, c. Dalrymple, book i. part ii. App.; Butler's Historical Mem. of the Catholics, iii. 162.

[2] Calamy's Life & Times, ii. 529; Lord Mahon's Hist., ii. 372; Bogue and Bennett's Hist., iii. 314–334. In 1696, it appeared that 108,676 freeholders in England and Wales were nonconformists (Census Report, 1851, c.); but as dissent chiefly prevailed in the towns, this return must have fallen very far short of the total numbers.

argy.[1] With many noble exceptions, the clergy had been inert and apathetic. A benefice was regarded as an estate, to which was attached the performance of certain ecclesiastical duties. These once performed, — the service read, the weekly sermon preached, the child christened, the parishioner buried, — and the parson differed little from the squire. He was generally charitable, kindly, moral; and well educated — according to the standard of the age — in all but theology.[2] But his spiritual calling sat lightly upon him. Zealous for church and king, and honestly hating dissenters, he was unconscious of a mission to spread the knowledge of the gospel among the people, to solve their doubts, to satisfy their spiritual longings, and to attach their religious sympathies to the church.[3] The nonconformist ministers, comfortably established among their flocks and enjoying their modest temporalities, shared the spiritual ease of churchmen. They were ruffled by no sectarian zeal or restless spirit of encroachment. Many even conformed to the Church of England. The age was not congenial to religious excitement and enthusiasm; a lull had succeeded to storms and agitations.

Wesley and Whitefield.

But this religious calm had lately been disturbed by Wesley and Whitefield, the apostles of modern dissent. These eminent men were both brought up as faithful disciples of the church, and admitted to holy orders. Not impelled to their extraordinary mission by any repugnance

[1] Bishop Gibson's Pastoral Letters, 2d Ed., 1728, p. 2; Butler's Advertisement to Analogy of Revealed Religion, 1736; Archbishop Secker's Eight Charges, 1738, p. 4; Southey's Life of Wesley, i. 324, &c.

[2] Bishop Burnet thus speaks of candidates for ordination: — "Those who have read some few books, yet never seem to have read the scriptures." "The case is not much better in many, who, having got into orders, come for instruction, and cannot make it appear that they have read the scriptures, or any one good book, since they were ordained." — *Pastoral Care*, 3d Ed., 1713: Preface.

[3] "A remiss, unthinking course of life, with little or no application to study, and the bare performing of that, which, if not done, would draw censures when complained of, without even pursuing the pastoral care in any suitable degree, is but too common, as well as too evident." — *Ibid* See also Intr. to last volume of Burnet's Hist.

to her doctrines and discipline, they went forth to rouse the people from their religious apathy, and awaken them to a sense of sin. They penetrated the haunts of ignorance and vice; and braved ridicule, insults, and violence. They preached in the open air to multitudes who had scarcely heard of the gospel. On the hill-side, by ruins, on the seashore, they appealed to the imagination as well as to the devotional sentiments of their hearers. They devoted their lives to the spiritual instruction of the middle and lower classes: preached to them everywhere: prayed with them: read the scriptures in public and private; and addressed them with familiar speech and homely illustration.[1] Wesley, still in communion with the church and holding her in love and reverence, became the founder of a new sect.[2] He preached to reclaim men from sin: he addressed the neglected heathens of society, whom the church knew not: he labored as a missionary, not as a sectarian. Schism grew out of his pious zeal: but his followers, like their revered founder, have seldom raised their voices, in the spirit of schismatics, against their parent church.[3] Whitefield, for a time the fellow-laborer of Wesley, surpassed that great man as a preacher; and moved the feelings and devotion of his hearers with the inspiration of a prophet; but, less gifted

[1] "I design plain truth for plain people; therefore, of set purpose I abstain from all nice and philosophical speculations, from all perplexed and intricate reasonings; and, as far as possible, from even the show of learning, unless in sometimes citing the original scriptures. I labor to avoid all words which are not easy to be understood, — all which are not used in common life, — and in particular those kinds of technical terms that so frequently occur in bodies of divinity." — *Wesley's Pref. to Sermons*, 1746. — In another place Wesley wrote: — "I dare no more write in a fine style, than wear a fine coat." — *Pref. to 2d Ser. of Sermons*, 1788.

[2] Rev. J. Wesley's Works, i. 185; ii. 515; vii. 422, 423; viii. 111, 254. 269, 311; Southey's Life of Wesley, ch. xii., xx., &c.

[3] Wesley's Works, viii. 205. 321; Centenary of Wesleyan Methodism, 183; Lord Mahon's Hist., ii. 365, 366. Wesley himself said: — "We are not seceders; nor do we bear any resemblance to them:" and after his sect had spread itself over the land, he continually preached in the churches of the establishment.

with powers of organization and government, he left fewer monuments of his labors, as the founder of a religious sect.[1] Holding to the doctrine of absolute predestination, he became the leader of the Calvinistic Methodists and Lady Huntingdon's connection.[2] The Methodists were regarded by churchmen as fanatical enthusiasts rather than dissenters; while their close relations with the church repelled the favor of other sects. They suffered ridicule, but enjoyed toleration; and, laboring in a new field, attracted multitudes to their communion.[3]

Revival of dissent.

The revival of the religious spirit by the Methodists gradually stimulated the older sects of nonconformists. Presbyterians, Independents, and Baptists, awakened by Wesley and Whitefield to a sense of the spiritual wants of the people, strove, with all their energies, to meet them. And large numbers, whose spiritual care had hitherto been neglected alike by the church and by nonconformists, were steadily swelling the ranks of dissent. The church caught the same spirit more slowly. She was not alive to the causes which were undermining her influence, and invading her proper domain, — the religious teaching of the people, — until chapels and meeting-houses had been erected in half the parishes of England.[4]

Church of Scotland.

The church of Scotland, which in former reigns had often been at issue with the civil power, had now fallen under the rule of the moderate party, and was as tractable as the church of England herself. She had ever been faithful to the Revolution settlement, by which her own privileges were assured; and, when free from persecution,

[1] Dr. Adam Clarke's Works, xiii. 257; Southey's Life of Wesley, ch. xxi.

[2] Wesley's Works, iii. 84; Philip's Life of Whitefield, 195, &c.; Southey's Life of Wesley, ch. xxv.; Life of Countess of Huntingdon, 8vo. 1840.

[3] Southey's Life of Wesley, ch. xxix.; Watson's Observations on Southey's Life, 138; Lord Mahon's Chapter on Methodism, Hist., ii. 354 Brook's Hist. of Relig. Lib., ii. 326–333.

[4] See *infra*, p. 419.

had cast off much of her former puritanism. Her spirit had been tempered by learning, cultivation, society, and the gentle influences of the South, until she had become a staunch ally of the crown and aristocracy.[1]

In Ireland, the Protestant church had made no progress since the days of Elizabeth. The mass of the population were still Catholics. The clergy of the state church, indifferent and supine, read the English liturgy in empty churches, while their parishioners attended mass in the Catholic chapels. Irish benefices afforded convenient patronage to the crown and the great families. The Irish church was a good rallying point for Protestant ascendency; but instead of fulfilling the mission of a national establishment, it provoked religious animosity and civil dissensions. For the present, however, Protestant rule was absolute; and the subjection of the Catholics undisturbed.[2]

Church of Ireland.

Such being the state of the church and other religious bodies, the gradual relaxation of the penal code was, at length, to be commenced. This code, the growth of more than two centuries, was wholly inconsistent with the policy of a free state. Liberty of thought and discussion was allowed to be a constitutional right: but freedom of conscience was interdicted. Religious unity was still assumed, while dissent was notorious. Conformity with the state church was held to be a duty, the neglect of which was punishable with penalties and disabilities. Freedom of worship and civil rights were denied to all but members of the church. This policy, originating in the doctrines of a church pretending to infallibility and admitted to our laws in the plenitude of civil and ecclesiastical power, grew up amid rebellions and civil wars, in which religion became the badge of contending parties. Re-

Gradual relaxation of the penal code commenced.

[1] Cunningham's Church Hist. of Scotland, ii. 491, 578, &c.

[2] Bishop Berkeley's Works, ii. 381; Wesley's Works, x. 209, &c.; Mant's Hist. of the Church of Ireland, ii. 288–294, 421–429, &c.; Lord Mahon's Hist., ii. 374.

ligious intolerance was its foundation: political expediency its occasional justification. Long after the state had ceased to be threatened by any religious sect, the same policy was maintained on a new ground, — the security of the established church.

General character of the penal code.

The penal code, with all its anomalies and inconsistencies, admitted of a simple division. One part imposed restraints on religious worship: the other attached civil disabilities to faith and doctrine. The former was naturally the first to be reviewed. More repugnant to religious liberty, and more generally condemned by the enlightened thinkers of the age, it was not to be defended by those political considerations which were associated with the latter. Men, earnest in upholding securities to our Protestant constitution, revolted from the persecution of conscience. These two divisions, however, were so intermixed in the tangled web of legislation: principles had been so little observed in carrying out the capricious and impulsive policy of intolerance; and the temper of Parliament and the country was still so unsettled in regard to the doctrines of religious liberty, that the labor of revision proceeded with no more system than the original code. Now a penalty affecting religion was repealed: now a civil disability removed. Sometimes Catholics received indulgence; and sometimes a particular sect of nonconformists. First one grievance was redressed, and then another; but Parliament continued to shrink from the broad assertion of religious liberty, as the right of British subjects and the policy of the state. Toleration and connivance at dissent had already succeeded to active persecution: society had outgrown the law: but a century of strife and agitation had yet to pass, before the penal code was blotted out, and religious liberty established. We have now to follow this great cause through its lengthened annals, and to trace its halting and unsteady progress.

Early in this reign, the broad principles of toleration were

judicially affirmed by the House of Lords. The city of London had perverted the Corporation Act into an instrument of extortion, by electing dissenters to the office of sheriff, and exacting fines when they refused to qualify. No less than 15,000*l.* had thus been levied before the dissenters resisted this imposition. The law had made them ineligible: then how could they be fined for not serving? The City Courts upheld the claims of the Corporation: but the dissenters appealed to the Court of Judges or commissioners' delegates, and obtained a judgment in their favor. In 1759 the Corporation brought the cause before the House of Lords, on a writ of error. The judges being consulted, only one could be found to support the claims of the Corporation; and the House of Lords unanimously affirmed the judgment of the Court below. In moving the judgment of the House, Lord Mansfield thus defined the legal rights of dissenters: — "It is now no crime," he said, "for a man to say he is a dissenter; nor is it any crime for him not to take the sacrament according to the rites of the Church of England: nay, the crime is if he doe it, contrary to the dictates of his conscience." And again: — "The Toleration Act renders that which was illegal before, now legal; the dissenters' way of worship is permitted and allowed by this Act. It is not only exempted from punishment, but rendered innocent and lawful; it is established; it is put under the protection, and is not merely under the connivance, of the law." And in condemning the laws to force conscience, he said: — "There is nothing certainly more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous and unjust, more impolitic, than persecution. It is against natural religion, revealed religion, and sound policy."[1] In his

Corporation of London and the Dissenters. Feb. 3d, 1767.

[1] Parl. Hist., xvi. 316. — Horace Walpole unjustly sneers at this speech as "another Whig oration" of Lord Mansfield's. — *Mem.*, ii 414. Lord Campbell's Chief Justices, ii. 512. Brook's Hist. of Relig. Lib., ii. 432.

views of toleration the judge was in advance of the legislature.

Subscription to 39 articles, Feb. 6th, 1772.

Several years elapsed before Parliament was invited to consider matters affecting the church and dissenters. In 1772, Sir William Meredith presented a petition from several clergymen and others, complaining that subscription to the thirty-nine articles was required of the clergy and at the universities. So far as this complaint concerned the clergy, it was a question of comprehension and church discipline; but subscription on matriculation affected the admission of dissenters to the University of Oxford; and subscription on taking the degrees of Doctor of Laws and Doctor of Medicine excluded dissenters from the practice of the civil law, as advocates, and the practice of medicine, as physicians. In debate this complaint was treated chiefly as a question affecting the discipline of the church and universities; but sentiments were expressed marking a growing spirit of toleration. It being objected that if subscription were relaxed, sectaries might gain admission to the church, Sir G. Savile said, finely, "sectaries, Sir! had it not been for sectaries, this cause had been tried at Rome. Thank God, it is tried here." The motion for bringing up the petition found no more than seventy-one supporters.[1] The University of Cambridge, however, made a concession to the complaints of these petitioners, by admitting bachelors of arts, on subscribing a declaration that they were *bonâ fide* members of the church of England, instead of requiring their subscription to the thirty-nine articles.[2] Sir W. Meredith renewed the discussion in the two following years, but found little encouragement.[3]

In 1772, Sir H. Hoghton brought in a bill, with little opposition, for relieving dissenting ministers and schoolmasters

[1] Ayes, 71; Noes, 217. Parl. Hist., xvii. 245; Clarke, iii. 261; Brook's Hist. of Relig. Lib., ii. 365.

[2] Hughes' Hist., ii. 56.

[3] Feb. 23d, 1773; May 5th, 1774; Parl. Hist., xvii. 742, 1326; Fox Mem., i. 92.

from the subscription required by the Toleration Act.[1] Dissenters conceived it to be a just matter of complaint that the law should recognize such a test, after dissent had been acknowledged to be lawful. No longer satisfied with connivance at a breach of the law, they prayed for honorable immunity. Their representations were felt to be so reasonable by the Commons, that the bill was passed with little opposition. In the Lords it was warmly supported by Lord Chatham,[2] the Duke of Richmond, Lord Camden, and Lord Mansfield; but was lost on the second reading by a majority of seventy-three.[3]

Subscription of dissenting ministers and schoolmasters, April 3d, 1772.

In the next year, Sir H. Hoghton introduced an amended measure, and passed it through all its stages, in the Commons, by large majorities. Arguments were still heard that connivance was all that dissenters could expect; in reply to which Mr. Burke exclaimed, "What, Sir, is liberty by connivance but a temporary relaxation of slavery?" In the Lords, the bill met with the same fate as in the previous year.[4]

Feb. 17th, 1773.

In 1779, however, Sir Henry Hoghton at length succeeded in passing his measure. Dissenters were enabled to preach and to act as schoolmasters, without subscribing any of the thirty-nine articles. No other subscription was proposed to be substituted; but, on the motion of Lord North, a declaration was required to be made,

Dissenting ministers' Act, 1779.

[1] The 34th, 35th, 36th, and part of the 20th articles had been excepted by the Toleration Act, as expressing the distinctive doctrines of the church.

[2] See outline of his speech, Chatham Corr., iv. 219.

[3] Ayes, 29; Noes, 102. Parl. Hist., xvii. 431–446.

[4] *Ibid.*, 759–791. With reference to this bill, Lord Chatham wrote:—"I hear, in the debate on the dissenters, the ministry avowed enslaving them, and to keep the cruel penal laws, like bloodhounds coupled up, to be let loose on the heels of these poor conscientious men, when government pleases; i. e. if they dare to dislike some ruinous measure, or to disobey orders at an election. Forty years ago, if any minister had avowed such a doctrine, the Tower! the Tower! would have echoed round the benches of the House of Lords; but *fuit Ilium*, the whole constitution is a shadow." —*Letter to Lord Shelburne*, April 14th, 1773: Chatham Corr., iv. 259.

that the person taking it was a Christian and a Protestant dissenter; and that he took the scriptures for the rule of his faith and practice. Except upon the question of this declaration, the bill passed through both Houses with little opposition.[1]

Dissenters admitted to offices in Ireland, 1779.

In Ireland, a much greater advance was made, at this time, in the principles of toleration. An Act was passed admitting Protestants to civil and military offices who had not taken the sacrament, — a measure nearly fifty years in advance of the policy of the British Parliament.[2] It must, however, be confessed that the dissenters owed this concession less to an enlightened toleration of their religion, than to the necessity of uniting all classes of Protestants in the cause of Protestant ascendency.

Prevalent opinions concerning Catholics

At this period, the penal laws affecting Roman Catholics also came under review. By the government the English Catholics were no longer regarded with political distrust. Neither in numbers, nor in influence, could they be dangerous to church or state. Their religion, however, was still held in aversion by the great body of the people; and they received little favor from any political party. With the exception of Fox, Burke, and Sir G. Savile, few of the Whigs felt any sympathy for their grievances. The Whigs were a party strongly influenced by traditions and hereditary sympathies. In struggling for civil and religious liberty at the Revolution, they had been leagued with the Puritans against the Papists: in maintaining the House of Hanover and the Protestant succession, they had still been in alliance with dissenters and in opposition to Catholics. Toleration to the Catholics, therefore, formed no part of the traditional creed of the Whig party.[3] Still less indulgence was to be expected from the Tories, whose sympathies

[1] Parl. Hist., xx. 239, 306–322. See 19 Geo. III. c. 44; Clarke, iii. 269, 355; Brook's Hist. of Relig. Lib., ii. 369.

[2] 19 & 20 Geo. III. c. 6 (Ireland).

[3] Fox's Mem., i. 176, 203, 204; Rockingham Mem., i. 228; Macaulay's Hist., iv. 118.

were wholly with the church. Believing penal laws to be necessary to her interests, they supported them, indifferently, against dissenters and Catholics. But the growing enlightenment of the time made the more reflecting statesmen, of all parties, revolt against some of the penal laws still in force against the Catholics. They had generally been suffered to sleep; but could, at any time, be revived by the bigotry of zealots, or the cupidity of relatives and informers. Several priests had been prosecuted for saying mass. Mr. Maloney, a priest, having been informed against, was unavoidably condemned to perpetual imprisonment. The government were shocked at this startling illustration of the law; and the king being afraid to grant a pardon, they ventured, on their own responsibility, to give the unfortunate priest his liberty.[1] Another priest owed his acquittal to the ingenuity and tolerant spirit of Lord Mansfield.[2] In many cases, Roman Catholics had escaped the penalties of the law, by bribing informers not to enforce them.[3] Lord Camden had protected a Catholic lady from spoliation, under the law, by a private Act of Parliament.[4]

To avert such scandals as these, and to redeem the law from the reproach of intolerance, Sir George Savile, in 1778, proposed a measure of relief for English Catholics. Its introduction was preceded by a loyal address to the king, signed by ten Catholic Lords and one hundred and sixty-three Commoners, giving assurance of their affection for His Majesty and attachment to the civil constitution of the country, and expressing sentiments calculated to conciliate the favor of Parliament and ministers. When it was explained that the penalties, imposed in 1700 and now to be repealed, were the perpetual imprisonment of priests for officiating in the services of their church, the for-

Roman Catholic Relief Act, 1778.

[1] Lord Shelburne's Speech, May 25th, 1773; Parl. Hist, xix. 1145; Butler's Hist. Mem., iii. 276.

[2] Holl., 176; Lord Campbell's Chief Justices, ii. 514.

[3] Parl. Hist., xix 1137–1145.

[4] Butler's Hist. Mem., iii. 284.

feiture of the estates of Roman Catholic heirs, educated abroad, in favor of the next Protestant heir, and the prohibition to acquire land by purchase,[1] — the bill was allowed to be introduced without a dissentient voice; and was afterwards passed through both Houses, with general approbation.[2] Such was the change in the feelings of the legislature, since the beginning of the century!

Riots in Scotland, 1778.

But in its views of religious liberty, Parliament was far in advance of considerable classes of the people. The fanaticism of the Puritans was not yet extinct. Any favor extended to the Roman Catholics, however just and moderate, aroused its latent flames. This bill extended to England only. The laws of Scotland relating to Roman Catholics, having been passed before its union with England, required further consideration and a different form of treatment. The lord-advocate had, therefore, promised to introduce a similar measure, applicable to Scotland, in the ensuing session. But in the meantime, the violent fanatics of a country which had nothing to fear from Catholics, were alarmed at the projected measure. They had vainly endeavored to oppose the English bill, and were now resolved that, at least, no relief should be granted to their own fellow-countrymen. They banded together in "Protestant Associations;"[3] and by inflammatory language incited the people to dangerous outrages. In Edinburgh, the mob destroyed two Roman Catholic chapels and several houses of reputed Papists. In Glasgow, there were no chapels to destroy; but the mob were able to show their zeal for religion, by sacking the factory of a Papist. The Roman Catholics trembled for their property and their lives. Few in numbers, they found little protection from Presbyterian magistrates; and were at the mercy of the rioters. Preferring indemnity for their losses, and immediate protection for their

[1] 11 & 12 Will. III. c. 4.

Parl. Hist., xix. 1137-1145; 18 Geo. III. c. 60; Butler's Hist. Mem. iii. 286-297.

[3] *Supra*, p. 129.

persons, to a prospective relief from penal statutes, they concurred with the government in the postponement of the contemplated measure, till a more favorable occasion.[1] In an admirable petition to the House of Commons, they described the outrages which had been committed against them, and expressed their loyalty and attachment to the constitution. While they readily forbore to press for a revision of the penal statutes, they claimed a present compensation for the damages inflicted upon their property Such compensation was at once promised by the government.[2] March 18th, 1779.

The success of the fanatical rioters in Scotland, who had accomplished an easy triumph over the Roman Catholics and the government, encouraged the anti-Catholic bigotry of England. If it was wrong to favor Papists in Scotland, the recent English Act was also an error, of which Parliament must now repent. The fanatics found a congenial leader in Lord George Gordon ; and the metropolis of England soon exceeded the two first cities of the North in religious zeal, and outrage. London was in flames, and Parliament invested by the mob, because some penalties against Roman Catholics, condemned by sober men of all parties, had lately been repealed. The insensate cry of "No Popery" resounded in the streets, in the midst of plunder and the torches of incendiaries.[3] Riots in London, 1780.

Petitions praying for the repeal of the recent Act were met by resolutions of the House of Commons, vindicating its provisions from misrepresentation.[4] One unworthy concession, however, was made to the popular excitement. Sir George Savile, hitherto the foremost friend of toleration, consented to introduce a bill to restrain Papists from teaching the children of Protestants. It was speedily passed through the House of Commons.[5] In the House of Lords, however,

[1] March 15th, 1779; Parl. Hist., xx. 280; Ann. Reg., 1780, p. 26.
[2] Parl. Hist., xx. 322.
[3] See *supra*, p. 130.
[4] June 20th, 1780; Parl. Hist., xxi. 713.
[5] Parl. Hist., xxi. 726.

the lord chancellor inserted an amendment limiting the bill to boarding-schools; and this limitation, being afterwards opposed by the bishops, led to the loss of the bill.[1]

For several years, the grievances of Catholics were permitted to rest in oblivion; but the claims of Protestant dissenters to further toleration elicited ample discussion.

Corporation and Test Acts, 1787.

The grievances suffered by dissenters, under the Corporation and Test Acts, had not been urged upon Parliament since the days of Sir Robert Walpole;[2] but in 1787, the time seemed favorable for obtaining redress. In Mr. Pitt's struggle with the coalition, the dissenters, having sided with the minister and contributed to his electoral triumphs, expected a recognition of their services at his hands.[3] Having distributed a printed case,[4] in which the history and claims of nonconformists were ably stated, they intrusted their cause to Mr. Beaufoy, who moved for a bill to repeal the Corporation and Test Acts. He showed how the patriotism of a nonconformist soldier might be rewarded with penalties and proscription; and how a public-spirited merchant would be excluded from municipal offices, in the city which his enterprise had enriched, unless he became an apostate from his faith. The annual indemnity acts proved the inutility of penal laws, while they failed effectually to protect dissenters. Members were admitted to both Houses of Parliament without any religious test: then why insist upon the orthodoxy of an exciseman? No danger to the state could be apprehended from the admission of dissenters to office. Who, since the Revolution, had been more faithful to the constitution and

Mr. Beaufoy's motion, March 28th, 1787.

[1] Parl. Hist., xxi. 754–766. In this year (1780) the Earl of Surrey, eldest son of the Duke of Norfolk, and Sir Thomas Gascoigne, abjured the Roman Catholic faith, and were immediately returned to Parliament. — Lord Mahon's Hist., vii. 111.

[2] Parl. Hist., ix. 1046.

[3] Tomline's Life of Pitt, ii. 254; Lord Stanhope's Life of Pitt, i. 337, &c.

[4] Case of the Protestant Dissenters, with reference to the Test and Corporation Acts. — Parl. Hist., xxvi. 780. *n.*

monarchy than they? Was there danger to the church? The church was in no danger from dissenters before the Test Act: the church of Scotland was in no danger where no Test Act had ever existed: the church of Ireland was in no danger now, though dissenters had for the last seven years been admitted to office in that country.[1] But danger was to be apprehended from oppressive laws which united different bodies of dissenters, otherwise hostile, in a common resentment to the church. Howard, the philanthropist, in serving his country, had braved the penalties of an outlaw, which any informer might enforce. Even members of the church of Scotland were disqualified for office in England. Belonging to the state church, they were treated as dissenters. In conclusion, he condemned the profanation of the holy sacrament itself: that rite should be administered to none unworthy to receive it; yet it had become the common test of fitness for secular employments. Such was the case presented in favor of dissenters. Mr. Beaufoy was not in the first rank of debaters, yet from the force of truth and a good cause, his admirable speech puts to shame the arguments with which the first statesmen of the day then ventured to oppose him.

Lord North regarded the Test Act as "the great bulwark of the constitution, to which we owed those inestimable blessings of freedom, which we now happily enjoyed." He contended that the exclusion of dissenters from office was still as necessary as when it was first imposed by the legislature; and denied that it involved the least contradiction to the principles of toleration. The state had allowed all persons to follow their own religion freely; but might decline to employ them unless they belonged to the established church.

Mr. Pitt was no friend to the penal laws: his statesmanship was superior to the narrow jealousies which favored them.[2] On this occasion he had been disposed to support

[1] *Supra*, p. 318.

[2] "To the mind of Pitt the whole system of penal laws was utterly abhorrent." — *Lord Stanhope's Life*, ii. 276.

the claims of the dissenters; but yielding to the opinion of the bishops,[1] he was constrained to oppose the motion. His speech betrayed the embarrassment of his situation. His accustomed force and clearness forsook him. He drew distinctions between political and civil liberty: maintained the right of the state to distribute political power to whom it pleased; and dwelt upon the duty of upholding the established church. Mr. Fox supported the cause of the dissenters; and promised them success if they persevered in demanding the redress of their grievances. The motion was lost by a majority of seventy-eight.[2]

Corporation and Test Acts, May 8th, 1789.

In 1789, Mr. Beaufoy renewed his motion; and to a recapitulation of his previous arguments added some striking illustrations of the operation of the law. The incapacity of dissenters extended not only to government employments, but to the direction of the Bank of England, the East India Company, and other chartered companies. When the Pretender had marched to the very centre of England, the dissenters had taken up arms in defence of the king's government; but instead of earning rewards for their loyalty, they were obliged to shelter themselves from penalties, under the Act of Grace, intended for the protection of rebels.

Mr. Fox supported the motion with all his ability. Men were to be tried, he said, not by their opinions, but by their actions. Yet the dissenters were discountenanced by the state, — not for their actions, which were good and loyal, but for their religious opinions, of which the state disapproved. No one could impute to them opinions or conduct dangerous to the state; and Parliament had practically admitted the injustice of the disqualifying laws, by passing annual acts of indemnity. To one remarkable observation later times have given unexpected significance. He said: "It would per-

[1] See Tomline's Life of Pitt, ii. 255; Lord Stanhope's Life of Pitt, i 337; Life of Bishop Watson, written by himself, i. 261.

[2] Ayes, 98; Noes, 176. Parl. Hist. xxvi. 780–832.

haps be contended that the repeal of the Corporation and Test Acts might enable the dissenters to obtain a majority This he scarcely thought probable; but it appeared fully sufficient to answer, that, if the majority of the people of England should ever be for the abolition of the established church, in such a case the abolition ought immediately to follow." [1]

Mr. Pitt opposed the motion in a temperate speech. "Allowing that there is no natural right to interfere with religious opinions," he contended that "when they are such as may produce a civil inconvenience, the government has a right to guard against the probability of the civil inconvenience being produced." He admitted the improved intelligence and loyalty of Roman Catholics, whose opinions had formerly been dangerous to the state; and did justice to the character of the dissenters: while he justified the maintenance of disqualifying laws, as a precautionary measure, in the interests of the established church. The motion was lost by the small majority of twenty.[2]

Encouraged by so near an approach to success, the dissenters continued to press their claims; and at their urgent solicitation, Mr. Fox himself undertook to advocate their cause. In March, 1790, he moved the consideration of the Test and Corporation Acts, in a committee of the whole House. He referred to the distinguished loyalty of the dissenters, in 1715 and 1745, when the high church party, who now opposed their claims, had been "hostile to the reigning family, and active in exciting tumults, insurrections, and rebellions." He urged the repeal of the test laws, with a view to allay the jealousies of dissenters against the church; and went so far as to affirm that "if this barrier of partition were removed, the very name of dissenter would be no more."

Corporation and Test Acts. Mr. Fox's motion, March 2d, 1790.

[1] "If the dissenters from the establishment become a majority of the people, the establishment itself ought to be altered or qualified." — *Paley's Moral and Political Philosophy*, book vi. c. x.

[2] Ayes, 102; Noes, 122. Parl. Hist., xxviii. 1–41. See Tomline's Life of Pitt, iii. 18.

Mr. Pitt's resistance to concession was now more decided than on any previous occasion. Again he maintained the distinction between religious toleration and the defensive policy of excluding from office those who were likely to prejudice the established church. No one had a right to demand public offices, which were distributed by the government for the benefit of the state; and which might properly be withheld from persons opposed to the constitution. The establishment would be endangered by the repeal of the test laws, as dissenters, honestly disapproving of the church, would use all legal means for its subversion.

Mr. Beaufoy replied to Mr. Pitt in a speech of singular force. If the test laws were to be maintained, he said, as part of a defensive policy, in deference to the fears of the church, the same fears might justify the exclusion of dissenters from Parliament, their disqualification to vote at elections, their right to possess property, or even their residence within the realm. If political fears were to be the measure of justice and public policy, what extremities might not be justified?

Mr. Burke, who on previous occasions had absented himself from the House when this question was discussed, and who even now confessed "that he had not been able to satisfy himself altogether" on the subject, spoke with characteristic warmth against the motion. His main arguments were founded upon the hostility of the dissenters to the established church, of which he adduced evidence from the writings of Dr. Priestley and Dr. Price, and from two nonconformist catechisms. If such men had the power, they undoubtedly had the will to overthrow the church of England, as the church of France had just been overthrown. Mr. Fox, in reply, deplored the opposition of Mr. Burke, which he referred to its true cause, — a horror of the French Revolution, — which was no less fatal to the claims of dissenters than to the general progress of a liberal policy. Mr. Fox's motion, which, in the previous year, had been lost by a nar-

row majority, was now defeated by a majority of nearly three to one.[1]

The further discussion of the test laws was not resumed for nearly forty years; but other questions affecting religious liberty were not overlooked. In 1791, Mr. Mitford brought in a bill for the relief of "Protesting Catholic Dissenters," — a sect of Catholics who protested against the pope's temporal authority, and his right to excommunicate kings and absolve subjects from their allegiance, as well as the right alleged to be assumed by Roman Catholics of not keeping faith with heretics. It was proposed to relieve this particular sect from the penal statutes, upon their taking an oath to this effect. The proposal was approved by all but Mr. Fox, who, in accepting the measure, contended that the relief should be extended generally to Roman Catholics. Mr. Pitt also avowed his wish that many of the penal statutes against the Catholics should be repealed.[2] Protesting Catholic Dissenters, 1791.

The bill was open to grave objections. It imputed to the Catholics, as a body, opinions repudiated by the most enlightened professors of their faith. Mr. Pitt received an explicit assurance from several foreign universities that Catholics claimed for the pope no civil jurisdiction in England, nor any power to absolve British subjects from their allegiance; and that there was no tenet by which they were justified in not keeping faith with heretics.[3] Again, this proposed oath required Catholics to renounce doctrines, in no sense affecting

[1] 294 to 105. Parl Hist., xxviii. 387–452; Lord Sidmouth's Life, i. 73; Tomline's Life of Pitt, iii. 99; Fox's Mem., ii. 361, 362. The subject gave rise, at this time, to much written controversy. Tracts by Bishops Sherlock and Hoadley were republished. One of the best pamphlets on the side of the dissenters was "The Rights of Protestant Dissenters, by a Layman, 1789." The Bishop of Oxford, writing to Mr. Peel in 1828, speaks of fourteen volumes on the subject, written in 1789 and 1790. — *Peel's Mem.*, i. 65.

[2] Parl. Hist., xxviii. 1262, 1364; Tomline's Life of Pitt, iii. 249; Lord Stanhope's Life of Pitt, ii. 100.

[3] See his questions and the answers, Plowden's Hist., ii. 199, App. No 91; Butler's Hist. Mem., iv. 10.

the state. In the House of Lords, these objections were forcibly urged by the Archbishop of Canterbury, and Dr. Horsley, bishop of St. David's; and to the credit of the episcopal bench, the latter succeeded in giving to the measure a more liberal and comprehensive character, according to the views of Mr. Fox. An oath was framed, not obnoxious to the general body of Catholics, the taking of which secured them complete freedom of worship and education; exempted their property from invidious regulations; opened to them the practice of the law in all its branches; and restored to peers their ancient privilege of intercourse with the king.[1]

Test Act (Scotland), 1791. April 18th, 1791.

In the debates upon the Test Act, the peculiarity of the law, as affecting members of the church of Scotland, had often been alluded to; and in 1791, a petition was presented from the General Assembly, praying for relief. On the 10th of May, Sir Gilbert Elliot, moved for a committee of the whole House upon the subject. To treat the member of an established church as a dissenter, was an anomaly too monstrous to be defended. Mr. Dundas admitted that, in order to qualify himself for office, he had communicated with the church of England, — a ceremony to which members of his church had no objection. It would have been whimsical indeed to contend that the Scotch were excluded from office by any law, as their undue share in the patronage of the state had been a popular subject of complaint and satire; but whether they enjoyed office by receiving the most solemn rites of a church of which they were not members, or by the operation of acts of indemnity, their position was equally anomalous. But as their case formed part of the general law affecting dissenters, which Parliament was in no humor to entertain, the motion was defeated by a large majority.[2]

[1] Parl. Hist., xxix. 113–115, 664; 31 Geo. III. c. 32; Butler's Hist. Mem. iv. 44, 52; Quarterly Rev., Oct. 1852, p. 555.

[2] Ayes, 62; Noes, 149. Parl. Hist., xxix. 488–510.

In 1792, Scotch Episcopalians were relieved from restraints which had been provoked by the disaffection of the Episcopalian clergy in the reigns of Anne and George II. As they no longer professed allegiance to the Stuarts, or refused to pray for the reigning king, there was no pretext for these invidious laws; and they were repealed with the concurrence of all parties.[1]

Restraints on Scotch Episcopalians repealed.

In the same year Mr. Fox, despairing, for the present, of any relaxation of the test laws, endeavored to obtain the repeal of certain penal statutes affecting religious opinions. His bill proposed to repeal several Acts of this nature;[2] but his main object was to exempt the Unitarians, who had petitioned for relief, from the penalties specially affecting their particular persuasion. They did not pray for civil enfranchisement, but simply for religious freedom. In deprecating the prejudices excited against this sect, he said, "Dr. South had traced their pedigree from wretch to wretch, back to the devil himself. These descendants of the devil were his clients." He attributed the late riots at Birmingham, and the attack upon Dr. Priestley, to religious bigotry and persecution; and claimed for this unpopular sect, at least the same toleration as other dissenting bodies. Mr. Burke, in opposing the motion, made a fierce onslaught upon the Unitarians. They were hostile to the church, he said, and had combined to effect its ruin: they had adopted the doctrines of Paine, and approved of the revolutionary excesses of the French Jacobins. The Unitarians were boldly defended by Mr. William Smith, — a constant advocate of religious liberty, who, growing old and honored in that cause, lived to be the Father of the House of Commons. Mr. Pitt declared his reprobation of the Unitarians, and opposed the motion, which was lost by a majority of seventy-nine.[3] Mr. Pitt and other

Penal statutes respecting religious opinions (Unitarians), May 11th, 1792.

[1] Parl. Hist., xxix. 1372.

[2] Viz. 9 & 10 Will. c. 32 (for suppressing blasphemy and profaneness) 1 Edw. VI. c. 1; 1 Mary, c. 3; 13 Eliz. c. 2.

[3] Ayes, 63; Noes, 142. Parl. Hist., xxix. 1372; Tomline's Life of Pitt iii. 317.

statesmen, in withholding civil rights from dissenters, had been careful to admit their title to religious freedom; but this vote unequivocally declared that doctrines and opinions might justly be punished as an offence.

Catholic relief, Ireland, 1792.

Meanwhile the perilous distractions of Ireland, and a formidable combination of the Catholic body, forced upon the attention of the government the wrongs of Irish Catholics. The great body of the Irish people were denied all the rights of citizens. Their public worship was still proscribed: their property, their social and domestic relations, and their civil liberties, were under interdict: they were excluded from all offices civil and military and even from the professions of law and medicine.[1] Already the penal code affecting the exercise of their religion had been partially relaxed:[2] but they still labored under all the civil disqualifications which the jealousy of ages had imposed. Mr. Pitt not only condemned the injustice of such disabilities; but hoped, by a policy of conciliation, to heal some of the unhappy feuds by which society was divided. Ireland could no longer be safely governed upon the exclusive principles of Protestant ascendency. Its people must not claim in vain the franchises of British subjects. And accordingly in 1792, some of the most galling disabilities were removed by the Irish Parliament. Catholics were admitted to the legal profession on taking the oath of allegiance and allowed to become clerks to attorneys. Restrictions on the education of their children and on their intermarriages with Protestants were also removed.[3]

In the next year more important privileges were conceded. All remaining restraints on Catholic worship and education

[1] Some restrictions had been added even in this reign. Butler's Hist. Mem., iii. 367, *et seq.*; 467–477, 484; O'Conor's Hist. of the Irish Catholics; Sydney Smith's Works, i. 269; Goldwin Smith's Irish Hist., &c., 124.

[2] Viz. in 1774, 1778, and 1782; 13 & 14 Geo. III. c. 35; 17 & 18 Geo. III. c. 49; 22 Geo. III. c. 24 (Irish); Parnell's Hist. of the Penal Laws, 84, &c.; Butler's Hist. Mem., iii. 486.

[3] 32 Geo. III. c. 21 (Irish); Debates (Ireland), xii. 39, &c.; Life of Grattan, ii. 53.

and the disposition of property, were removed. Catholics were admitted to vote at elections, on taking the oaths of allegiance and abjuration; to all but the higher civil and military offices, and to the honors and emoluments of Dublin University. In the law they could not rise to the rank of king's counsel; nor in the army beyond the rank of colonel: nor, in their own counties, could they aspire to the offices of sheriff and sub-sheriff:[1] their highest ambition was still curbed; but they received a wide enfranchisement, beyond their former hopes.

Catholic relief, Ireland, 1793.

In this year tardy justice was also rendered to the Roman Catholics of Scotland. All excitement upon the subject having passed away, a bill was brought in and passed without opposition, to relieve them, like their English brethren, from many grievous penalties to which they were exposed. In proposing the measure, the lord-advocate stated that the obnoxious statutes were not so obsolete as might be expected. At that very time a Roman Catholic gentleman was in danger of being stripped of his estate, — which had been in his family for at least a century and a half, — by a relation having no other claim to it, than that which he derived, as a Protestant, from the cruel provisions of the law.[2]

Catholic relief, Scotland, 1793.

The Quakers next appealed to Parliament for relief. In 1796, they presented a petition describing their sufferings on account of religious scruples; and Mr. Sergeant Adair brought in a bill to facilitate the recovery of tithes from members of that sect, without subjecting them to imprisonment; and to allow them to be examined upon affirmation in criminal cases. The remedy proposed for the recovery of tithes had already been pro-

Quakers. April 21st, 1796.

[1] 33 Geo. III. c. 21 (Irish); Debates of Irish Parliament, xiii. 199; Plowden's Hist., ii. 421; Adolphus' Hist., vi. 249-256; Lord Stanhope's Life of Pitt, ii. 277; Butler's Hist. Mem., iv. 62; Life of Grattan, iv. 87 Parnell's Hist. of the Penal Laws, 124.

[2] Parl. Hist., xxx. 766; 33 Geo. III. c. 44; Butler's Hist. Mem., iv 103.

vided by statute, in demands not exceeding 10*l.*;[1] and the sole object of this part of the bill was to insure the recovery of all tithes without requiring the consent of the Quakers themselves, to which they had so strong a religious scruple, that they preferred perpetual imprisonment. At that very time, seven of their brethren were lying in the jail at York, without any prospect of relief. This bill was passed by the Commons, but was lost in the Lords, upon the representation of the Archbishop of Canterbury that it involved a question of right of very great importance, which there was not then time to consider.[3]

Quakers, 1797.

In the next session, the bill was renewed,[2] when it encountered the resolute opposition of Sir William Scott.[4] "The opinions held by the Quakers," he said, "were of such a nature as to affect the civil rights of property, and therefore he considered them as unworthy of legislative indulgence." If one man had conscientious scruples against the payment of tithes to which his property was legally liable, another might object to the payment of rent as sinful, while a third might hold it irreligious to pay his debts. If the principle of indulgence were ever admitted, "the sect of anti-tithe Christians would soon become the most numerous and flourishing in the kingdom." He argued that the security of property in tithes would be diminished by the bill, and that "the tithe-owner would become an owner, not of property, but of suits." It was replied that the tithe-owner would be enabled by the bill to recover his demands by summary distress, instead of punishing the Quaker with useless imprisonment. The very remedy, indeed, was provided, which the law adopted for the recovery of rent. The bill was also opposed by the solicitor-general, Sir John Mitford, who denied that Quakers entertained any conscientious scruples at all against the payment of tithes. The question for going into committee on the bill was decided

[1] 7 & 8 Will. III. c. 34; 1 Geo. I., st. 2, c. 6; Parl. Hist., ix. 1220.
[2] Parl. Hist., xxxii. 1022.
[3] *Ibid.*, 1206.
[4] Afterwards Lord Stowell.

by the casting vote of the speaker; but upon a subsequent day, the bill was lost by a majority of sixteen.[1]

Such had been the narrow jealousy of the state, that Roman Catholics and dissenters, however loyal and patriotic, were not permitted to share in the defence of their country. They could not be trusted with arms, lest they should turn them against their own countrymen. In 1797, Mr. Wilberforce endeavored to redress a part of this wrong, by obtaining the admission of Roman Catholics to the militia. Supported by Mr. Pitt, he succeeded in passing his bill through the Commons. In the Lords, however, it was opposed by Bishop Horsley and other peers; and its provisions being extended to dissenters, its fate was sealed.[2]

Catholics and the militia.

The English ministers were still alive to the importance of a liberal and conciliatory policy, in the government of Ireland. In 1795, Lord Fitzwilliam accepted the office of lord-lieutenant, in order to carry out such a policy. He even conceived himself to have the authority of the cabinet to favor an extensive enfranchisement of Catholics; but having committed himself too deeply to that party, he was recalled.[3] There were, indeed, insurmountable difficulties in reconciling an extended toleration to Catholics with Protestant ascendency in the Irish Parliament.

Lord Fitzwilliam's policy, 1795.

But the union of Catholic Ireland with Protestant Great Britain introduced new considerations of state policy. To admit Catholics to the Parliament of the United Kingdom would be a concession full of popularity to the people of Ireland, while their

Union with Ireland, in connection with Catholic disabilities.

[1] Parl. Hist., xxxii. 1508.

[2] Wilberforce's Life, ii. 222. The debates are not to be found in the Parliamentary History. "No power in Europe, but yourselves, has ever thought, for these hundred years past, of asking whether a bayonet is Catholic, or Presbyterian, or Lutheran; but whether it is sharp and well-tempered." — *Peter Plymley's Letters;* Sydney Smith's Works, iii. 63.

[3] Parl. Hist., xxxiv. 672, &c.; Plowden's Hist., ii. 467; Butler's Hist. Mem. iv. 65.

admission to a legislature comprising an overwhelming Protestant majority, would be free from danger to the established church or to the Protestant character of Parliament. In such a union of the two countries, the two nations would also be embraced. In the discussions relating to the Union, the removal of Catholic disabilities, as one of its probable consequences, was frequently alluded to. Mr. Canning argued that the Union "would satisfy the friends of the Protestant ascendency, without passing laws against the Catholics, and without maintaining those which are yet in force." [1] And Mr. Pitt said: "No man can say that in the present state of things, and while Ireland remains a separate kingdom, full concessions could be made to the Catholics, without endangering the state and shaking the constitution of Ireland to its centre." . . . . But "when the conduct of the Catholics shall be such as to make it safe for the government to admit them to a participation of the privileges granted to those of the established religion, and when the temper of the times shall be favorable to such a measure, it is obvious that such a question may be agitated in a united Imperial Parliament, with much greater safety than it could be in a separate legislature." [2] He also hinted at the expediency of proposing some mode of relieving the poorer classes from the pressure of tithes, and for making a provision for the Catholic clergy, without affecting the security of the Protestant establishment.[3]

Jan. 23d, 1799.

Jan. 31st.

[1] Parl. Hist. xxxiv., 230; Lord Holland's Mem., i. 161.

[2] Parl. Hist., xxxiv., 272.

[3] Mr. Pitt and Lord Grenville agreed generally upon the Catholic claims. "Previously to the Union with Ireland, it had never entered into the mind of the latter that there could be any further relaxation of the laws against Papists: but from that time he had been convinced that everything necessary for them might be granted without the slightest danger to the Protestant interest." — Abstract of Lord Grenville's Letter to the Principal of Brazenose, 1810. — *Lord Colchester's Diary*, ii. 224.

"Lord Camden told me that, being a member of Mr. Pitt's government in 1800, he knew that Mr. Pitt had never matured any plan for giving what is called emancipation to the Roman Catholics." — *Ibid.*, iii. 326.

In securing the support of different parties in Ireland to the Union, the question of Catholic disabilities was one of great delicacy. Distinct promises, which might have secured the hearty support of the Catholics, would have alienated the Protestants, — by far the most powerful party, — and endangered the success of the whole measure. At the same time, there was hazard of the Catholics being gained over to oppose the Union, by expectations of relief from the Irish Parliament.[1] Lord Cornwallis alive to these difficulties, appears to have met them with consummate address. Careful not to commit himself or the government to any specific engagements, he succeeded in encouraging the hopes of the Catholics, without alarming the Protestant party.[2] The sentiments of the government were known to be generally favorable to measures of relief; but Mr. Pitt had been forbidden by the king to offer any concessions whatever,[3] nor had he himself determined upon the measures which it would be advisable to propose.[4] He was,

The Irish executive and the Catholics.

[1] Cornwallis's Corr., iii. 51.

[2] Jan. 2d, 1799, he writes: — "I shall endeavor to give them (the Catholics) the most favorable impressions, without holding out to them hopes of any relaxation on the part of government, and shall leave no effort untried to prevent an opposition to the Union being made the measure of that party." — *Corr.*, iii. 29.

And again, Jan. 28th, 1799: — "I much doubt the policy of at present holding out to them any decided expectations: it might weaken us with the Protestants, and might not strengthen us with the Catholics, whilst they look to carry their question unconnected with Union." — *Ibid.*, 55. See also *ibid.*, 63, 149, 327, 344, 347.

[3] June 11th, 1798, the king writes to Mr. Pitt: — "Lord Cornwallis must clearly understand that no indulgence can be granted to the Catholics farther than has been, I am afraid unadvisedly, done in former sessions, and that he must by a steady conduct effect in future the union of that kingdom with this." — *Lord Stanhope's Life of Pitt*, iii. App. xvi.

Again, Jan. 24th, 1799, having seen in a letter from Lord Castlereagh "an idea of an established stipend by the authority of government for the Catholic clergy of Ireland," he wrote: — "I am certain any encouragement to such an idea must give real offence to the established church in Ireland, as well as to the true friends of our constitution; for it is certainly creating a second church establishment, which could not but be highly injurious." — *Ibid.*, xviii.

[4] Mr. Pitt wrote to Lord Cornwallis, Nov. 17th, 1798: — "Mr. Elliot,

therefore, able to deny that he had given any pledge upon the subject, or that the Catholics conceived themselves to have received any such pledge;[1] but he admitted that they had formed strong expectations of remedial measures after the Union; of which indeed there is abundant testimony.[2]

Concessions to Catholics proposed, after the Union.

The e expectations Mr. Pitt and his colleagues were prepared to satisfy. When the Union had been accomplished, they agreed that the altered relations of the two countries would allow them to do full justice to the Catholics, without any danger to the established church. They were of opinion that Catholics might now be safely admitted to office and to the privilege of sitting in Parliament; and that dissenters should, at the same time, be relieved from civil disabilities. It was also designed to attach the Catholic clergy to the state, by making them dependent upon public funds for a part of their provision, and to induce them to submit to superintendence.[3] It was a measure of high and prescient statesmanship, — worthy of the genius of the great minister who had achieved the Union.

Concessions forbidden by the king.

But toleration, which had formerly been resisted by Parliament and the people, now encountered the invincible opposition of the king, who refused his assent to further measures of concession, as incon-

when he brought me your letter, stated very strongly all the arguments which he thought might induce us to admit the Catholics to Parliament and office; but I confess he did not satisfy me of the practicability of such a measure at this time, or of the propriety of attempting it. With respect to a provision for the Catholic clergy, and some arrangement respecting tithes, I am happy to find an uniform opinion in favor of the proposal, among all the Irish I have seen." — *Lord Stanhope's Life of Pitt*, iii. 161. See also Castlereagh Corr., i. 73; Lord Colchester's Mem., i. 250, 511.

[1] March 25th, 1801; Parl. Hist., xxxv. 1124; and see Cornwallis's Corr., iii. 343–350.

[2] Lord Liverpool's Mem., 128; Castlereagh Corr., iv. 11, 13, 34; Lord Stanhope's Life of Pitt, iii. 263, 281–288, &c., App. xxiii. *et seq.*; Lord Malmesbury's Corr., iv. 1, *et seq.*; Cornwallis's Corr., ii. 436; Butler's Hist. Mem., iv. 70; see also Edinb. Rev., Jan. 1858.

[3] Mr. Pitt's Letter to the King, Jan. 31st, 1801; Lord Sidmouth's Life, i. 289; Lord Cornwallis's Corr., iii. 325, 335, 344; Court and Cabinets of Geo. III., iii. 129. The Irish Catholic bishops had consented to allow the crown a *veto* on their nomination. — Butler's Hist. Mem., iv. 112–134.

sistent with the obligations of his coronation oath. To his unfounded scruples were sacrificed the rights of millions and the peace of Ireland. The measure was arrested at its inception. The minister fell; and, in deference to the king's feelings, was constrained to renounce his own wise and liberal policy.[1]

Critical condition of Ireland

But the question of Catholic disabilities, in connection with the government of Ireland, was too momentous to be set at rest by the religious scruples of the king, and the respectful forbearance of statesmen. In the rebellion of 1798, the savage hatred of Protestants and Catholics had aggravated the dangers of that critical period. Nor were the difficulties of administering the government overcome by the Union. The abortive rebellion of Robert Emmett, in 1803, again exposed the alarming condition of Ireland; and suggested that the social dislocation of that unhappy country needed a more statesmanlike treatment than that of Protestant ascendency and irritating disabilities. For the present, however, the general question was in abeyance in Parliament. Mr. Pitt had been silenced by the king; and Mr. Addington's administration was avowedly anti-Catholic. Yet in 1803, Catholics obtained a further instalment of relief, — being exempted from certain penalties and disabilities, on taking the oath and subscribing the declaration prescribed by the Act of 1791.[2]

The Catholic question in abeyance.

Mr. Pitt, 1804–5.

In 1804, a serious agitation for Catholic relief commenced in Ireland: but as yet the cause was without hope. On Mr. Pitt's restoration to power, he was still restrained by his engagement to the king from proposing any measure for the relief of Catholics himself; and was constrained to resist their claims when advocated by others. In 1805, the discussion of the general question was resumed in Parliament. Lord Grenville presented a petition from the Roman Catholics of

Catholic petition, March 25th, 1805.

[1] *Supra*, Vol. I. 85–89.

[2] 43 Geo. III. c. 30.

[3] Lord Stanhope's Life of Pitt, iv. 297, 391.

Ireland, recounting the disabilities under which they still suffered.[1]

Lord Grenville's motion, May 10th, 1805.

On the 10th May, his lordship moved for a committee of the whole House to consider this petition. He urged that three fourths of the people of Ireland were Roman Catholics, whose existence the state could not ignore. At the time of the Revolution they had been excluded from civil privileges, not on account of their religion, but for their political adhesion to the exiled sovereign. In the present reign they had received toleration in the exercise of their religion, power to acquire land, the enjoyment of the elective franchise, and the right to fill many offices from which they had previously been excluded. Whatever objections might have existed to the admission of Roman Catholics to the Parliament of Ireland, had been removed by the Union; as in the Parliament of the United Kingdom there was a vast preponderance of Protestants. This argument had been used by those who had promoted the Union. It had encouraged the hopes of the Roman Catholics; and now, for the first time since the Union, that body had appealed to Parliament. His lordship dwelt upon their loyalty, as frequently declared by the Irish Parliament; exonerated them from participation, as a body, in the Rebellion; combated the prejudice raised against them on account of the recent coronation of Napoleon by the pope; and illustrated the feelings which their exclusion from lawful objects of ambition naturally excited in their minds. He desired to unite all classes of the people in the common benefits and common interests of the state.

This speech, which ably presented the entire case of the Roman Catholics, opened a succession of debates, in which all the arguments relating to their claims were elicited.[2] As regards the high offices of state, it was urged by Lord Hawkesbury, that while the law excluded a Roman Catholic

[1] Hans. Deb., 1st Ser., iv. 97

[2] *Ibid.*, iv. 651–729, 742.

sovereign from the throne of his inheritance, it could scarcely be allowed that the councils of a Protestant king should be directed by Roman Catholics. Roman Catholics, it was argued, would not be fit persons to sit in Parliament, so long as they refused to take the oath of supremacy, which merely renounced foreign dominion and jurisdiction. In Ireland, their admission would increase the influence of the priesthood in elections, and array the property of the country on one side, and its religion and numbers on the other. The Duke of Cumberland opposed the prayer of the petition, as fatal to all the principles upon which the House of Hanover had been called to the throne. Every apprehension and prejudice which could be appealed to, in opposition to the claims of the Roman Catholics, was exerted in this debate. The pope, their master, was the slave and tool of Napoleon. If intrusted with power, they would resist the payment of tithes, and overthrow the established church. Nay, Catholic families would reclaim their forfeited estates, which for five generations had been in the possession of Protestants or had since been repurchased by Catholics. After two nights' debate, Lord Grenville's motion was negatived by a majority of 129.[1]

Mr. Fox also offered a similar motion to the Commons, founded upon a petition addressed to that House. The people whose cause he was advocating, amounted, he said, to between a fourth and a fifth of the entire population of the United Kingdom. So large a portion of his fellow-subjects had been excluded from civil rights, not on account of their religion, but for political causes which no longer existed. Queen Elizabeth had not viewed them as loyal subjects of a Protestant queen. The character and conduct of the Stuarts had made the people distrustful of the Catholics. At the time of the Revolution "it was not a Catholic, but a Jacobite, you wished to restrain." In Ireland, again, the restrictions upon

Mr. Fox's motion in the Commons, May 13th, 1805.

[1] Contents, 49; Non-contents, 178. Hans. Deb., 1st Ser., iv. 843.

Catholics were political and not religious. In the civil war which had raged there, the Catholics were the supporters of James, and as Jacobites were discouraged and restrained. The Test Act of Charles II. was passed because the sovereign himself was suspected; and Catholic officers were excluded, lest they should assist him in his endeavors to subvert the constitution. There was no fear, now, of a Protestant king being unduly influenced by Catholic ministers. The danger of admitting Catholics to Parliament was chimerical. Did any one believe that twenty Catholic members would be returned from the whole of Ireland?[1] In reply to this question, Dr. Duigenan asserted that Ireland would return upwards of eighty Catholic members, and the English boroughs twenty more, — thus forming a compact confederacy of 100 members, banded together for the subversion of all our institutions in church and state.

He was answered eloquently and in a liberal spirit by Mr. Grattan, in the first speech addressed by him to the Imperial Parliament. The general discussion was not distinguished, on either side, by much novelty.

The speech of Mr. Pitt serves as a landmark, denoting the position of the question at that time. He frankly admitted that he retained his opinion, formed at the time of the Union, that Catholics might be admitted to the united Parliament, "under proper guards and conditions," without "any danger to the established church or the Protestant constitution." But the circumstances which had then prevented him from proposing such a measure "had made so deep, so lasting an impression upon his mind, that so long as those circumstances continued to operate, he should feel it a duty imposed upon him, not only not to bring forward, but not in any manner to be a party in bringing forward or in agitating this question." At the same time he deprecated its agitation by others under circumstances most unfavorable to its settlement. Such a measure would be generally repugnant to

[1] Hans. Deb., 1st Ser., iv. 834–854.

members of the established church; to the nobility, gentry, and middle classes, both in England and Ireland; assuredly to the House of Lords, which had just declared its opinion;[1] and, as he believed, to the great majority of the House of Commons. To urge forward a measure, in opposition to obstacles so insuperable, could not advance the cause; while it encouraged delusive hopes, and fostered religious and political animosities.[2]

Mr. Windham denied that the general sentiment was against such a measure; and scouted the advice that it should be postponed until there was a general concurrence in its favor. "If no measure," he said, "is ever to pass in Parliament which has not the unanimous sense of the country in its favor, prejudice and passion may forever triumph over reason and sound policy." After a masterly reply by Mr. Fox, which closed a debate of two nights, the House proceeded to a division, when his motion was lost by a decisive majority of one hundred and twelve.[3]

The present temper of Parliament was obviously unfavorable to the Catholic cause. The hopes of the Catholics, however, were again raised by the death of Mr. Pitt and the formation of the Whig Ministry of 1806. The cabinet comprised Lord Grenville, Mr. Fox, and other statesmen who had advocated Catholic relief in 1801, and in the recent debates of 1805; and the Catholics of Ireland did not fail to press upon them the justice of renewing the consideration of their claims. This pressure was a serious embarrassment to ministers. After the events of 1801, they needed no warning of the difficulty of their position, which otherwise was far from secure. No measure satisfactory to the Catholics could be submitted to the king; and the bare mention of the subject was not

The Whig ministry of 1806, and the Catholics.

[1] The debate had been adjourned till the day after the decision in the Lords.

[2] Hans. Deb., 1st Ser., iv. 1013.

[3] Ayes, 124; Noes, 236. Hans. Deb., 1st Ser., iv. 1060; Grattan's Life v. 253–264.

without danger. They were too conscious not only of His Majesty's inflexible opinions, but of his repugnance to themselves. Mr. Fox perceived so clearly the impossibility of approaching the king, that he persuaded the Catholic leaders to forbear their claims for the present. They had recently been rejected, by large majorities, in both Houses; and to repeat them now would merely embarrass their friends, and offer another easy triumph to their enemies.[1] But it is hard for the victims of wrong to appreciate the difficulties of statesmen; and the Catholics murmured at the apparent desertion of their friends. For a time they were pacified by the liberal administration of the Duke of Bedford in Ireland; but after Mr. Fox's death, and the dissolution of Parliament in 1806, they again became impatient.[2]

Army and Navy Service Bill, 1807.

At length Lord Grenville, hoping to avert further pressure on the general question, resolved to redress a grievance which pressed heavily in time of war, not upon Catholics only, but upon the public service. By the Irish Act of 1793, Catholics were allowed to hold any commission in the army in Ireland, up to the rank of colonel: but were excluded from the higher staff appointments of commander-in-chief, master-general of the ordnance, and general of the staff. As this Act had not been extended to Great Britain, a Catholic officer in the king's service, on leaving Ireland, became liable to the penalties of the English laws. To remove this obvious anomaly, the government at first proposed to assimilate the laws of both countries by two clauses in the Mutiny Act; and to this proposal the king reluctantly gave his consent. On further consideration, however, this simple provision appeared inadequate. The Irish Act applied to Catholics only, as dissenters had been admitted by a previous Act to serve in civil and military offices; and it was confined to the army, as Ire-

[1] Lord Sidmouth's Life, ii. 436; Ann. Reg., 1806, p. 25; Lord Holland's Mem. of the Whig Party, i. 213, *et seq.*; Butler's Hist. Mem., iv. 184–187.

[2] Butler's Hist. Mem., iv. 188; Grattan's Life, v. 282–296, 334.

land had no navy. The exceptions in the Irish Act were considered unnecessary; and it was further thought just to grant indulgence to soldiers in the exercise of their religion. As these questions arose, from time to time, ministers communicated to the king their correspondence with the lord-lieutenant, and explained the variations of their proposed measure from that of the Irish Act, with the grounds upon which they were recommended. Throughout these communications His Majesty did not conceal his general dislike and disapprobation of the measure; but was understood to give his reluctant assent to its introduction as a separate bill.[1]

In this form the bill was introduced by Lord Howick. He explained that when the Irish Act of 1793 had been passed, a similar measure had been promised for Great Britain. That promise was at length to be fulfilled; but as it would be unreasonable to confine the measure to Catholics, it was proposed to embrace dissenters in its provisions. The Act of 1793 had applied to the army only; but it was then distinctly stated that the navy should be included in the Act of the British Parliament. If Catholics were admitted to one branch of the service, what possible objection could there be to their admission to the other? He did not propose, however, to continue the restrictions of the Irish Act, which disqualified a Catholic from the offices of commander-in-chief, master-general of the ordnance, or general on the staff. Such restrictions were at once unnecessary and injurious. The appointment to these high offices was vested in the crown, which would be under no obligation to appoint Roman Catholics; and it was an injury to the public service to exclude by law a man "who might be called by the voice of the army and the people" to fill an office, for which he had

Bill brought in by Lord Howick, March 5th, 1807.

[1] Explanations of Lord Grenville and Lord Howick, March 26th, 1807; Hans. Deb., 1st Ser., ix. 231, 261–279; Lord Castlereagh Corr., iv. 374; Lord Sidmouth's Life, ii. 436; Lord Grenville's Letter, Feb. 10th, 1807; Court and Cabinets of Geo. III., iv. 117; Lord Holland's Mem., ii. 159–199 App. 270; Lord Malmesbury's Corr., p. 365.

proved his fitness by distinguished services. Lastly, he proposed to provide that all who should enter His Majesty's service should enjoy "the free and unrestrained exercise of their religion, so far as it did not interfere with their military duties."[1] Mr. Spencer Perceval sounded the note of alarm at these proposals, which, in his opinion, involved all the principles of complete emancipation. If military equality were conceded, how could civil equality be afterwards resisted? His apprehensions were shared by some other members; but the bill was allowed to be introduced without opposition.

Withdrawal of bill, and fall of ministers.

Its further progress, however, was suddenly arrested by the king, who refused to admit Catholics to the staff, and to include dissenters in the provisions of the bill.[2] He declared that his previous assent had been given to the simple extension of the Irish Act to Great Britain; and he would agree to nothing more. Again a ministry fell under the difficulties of the Catholic question.[3] The embarrassments of ministers had undoubtedly been great. They had desired to maintain their own character and consistency, and to conciliate the Catholics, without shocking the well-known scruples of the king. Their scheme was just and moderate: it was open to no rational objection; but neither in the preparation of the measure itself, nor in their communications with the king, can they be acquitted of errors which were turned against themselves and the unlucky cause they had espoused.[4]

Anti-Catholic sentiments of the new ministers.

Again were the hopes of the Catholics wrecked, and with them the hopes of a liberal government in England. An anti-Catholic administration was formed under the Duke of Portland and Mr. Per-

[1] Hans. Deb., 1st Ser., ix. 2–7.

[2] *Ibid.*, ix. 149, 173.

[3] The constitutional questions involved in their removal from office have been related elsewhere; Vol. I. 93.

[4] Hans. Deb., 1st Ser., ix. 231, 247, 261, 340, &c.; Lord Holland's Mem., ii. 160, *et seq.*; App. to vol. ii. 270; Lord Malmesbury's Corr., iv. 367, 379; Lord Sidmouth's Life, ii. 448–472.

ceval; and cries of "No Popery," and "Church and King," were raised throughout the land.[1] Mr. Perceval in his address to the electors of Northampton, on vacating his seat, took credit for "coming forward in the service of his sovereign, and endeavoring to stand by him at this important crisis, when he is making so firm and so necessary a stand for the religious establishment of the country."[2] The Duke of Portland wrote to the University of Oxford, of which he was Chancellor, desiring them to petition against the Catholic bill; and the Duke of Cumberland, Chancellor of the University of Dublin, sought petitions from that university. No pains were spared to arouse the fears and prejudices of Protestants. Thus Mr. Perceval averred that the measure recently withdrawn would not have "stopped short till it had brought Roman Catholic bishops to the House of Lords."[3] Such cries as these were reëchoed at the elections. An ultra-Protestant Parliament was assembled; and the Catholic cause was hopeless.[4]

The Catholics of Ireland, however, did not suffer their claims to be forgotten; but by frequent petitions, and the earnest support of their friends, continued to keep alive the interest of the Catholic question, in the midst of more engrossing subjects. But discussions, however able, which were unfruitful of results, can claim no more than a passing notice. Petitions were fully discussed in both Houses in 1808.[5] And again, in 1810, Earl Grey

Roman Catholic petitions, 1808.

[1] Mr. Henry Erskine said to the Duchess of Gordon: — "It was much to be lamented that poor Lord George did not live in these times, when he would have stood a chance of being in the cabinet, instead of being in Newgate." — *Romilly's Mem.*, ii. 193.

[2] Romilly's Mem., ii. 192.

[3] Hans. Deb., 1st Ser., ix. 315.

[4] Lord Malmesbury says: — "The spirit of the whole country is with the king; and the idea of the church being in danger (perhaps not quite untrue) makes Lord Grenville and the Foxites most unpopular." — *Corr.*, iv. 394.

[5] Lords' Debates, May 27th, 1808; Commons' Debates, May 25th, 1808; Hans. Deb., 1st Ser., xi. 1, 30, 489, 549–638, 643–694; Grattan's Life, v 376.

presented two petitions from Roman Catholics in England, complaining that they were denied many privileges which were enjoyed by their Roman Catholic brethren in other parts of the empire. He stated that in Canada Roman Catholics were eligible to all offices, in common with their Protestant fellow-subjects. In Ireland, they were allowed to act as magistrates, to become members of lay corporations, to take degrees at Trinity College, to vote at elections, and to attain to every rank in the army except that of general of the staff. In England, they could not be included in the commission of the peace, nor become members of corporations, were debarred from taking degrees at the universities, and could not legally hold any rank in the army.[1] The Roman Catholics of Ireland also presented petitions to the House of Commons through Mr. Grattan, in this session.[2] But his motion to refer them to a committee was defeated, after a debate of three nights, by a majority of one hundred and four.[3]

Catholic petitions presented by Earl Grey, Feb. 22d, 1810.

Mr. Grattan's motion, May 18th, 1810.

In the same session, Lord Donoughmore moved to refer several petitions from the Roman Catholics of Ireland to a committee of the House of Lords. But as Lord Grenville had declined, with the concurrence of Lord Grey, to bring forward the Catholic claims, the question was not presented under favorable circumstances; and the motion was lost by a majority of eighty-six.[4]

Lord Donoughmore's motion, June 6th, 1810.

One other demonstration was made during this session in support of the Catholic cause. Lord Grey, in his speech on the state of the nation, adverted to the continued postponement of concessions to the Catholics, as a source of danger and weakness to the state in the conduct of the war; and appealed to ministers to

Earl Grey's motion on the state of the nation, June 13th, 1810.

[1] Hans. Deb., 1st Ser., xv. 503.

[2] Feb. 27th, *ibid.*, 634.

[3] *Ibid.*, xvii. 17, 183, 235. Ayes, 109; Noes, 213. Grattan's Life, v. 410.

[4] Contents, 68; Non-contents, 154. Hans. Deb., 1st Ser., xvii. 353–440.

"unite the hearts and hands of all classes of the people, in defence of their common country." An allusion to this question was also made in the address which he proposed to the crown.[1]

In the autumn of this year, an event fraught with sadness to the nation once more raised the hopes of the Catholics. The aged king was stricken with his last infirmity; and a new political era was opening, full of promise to their cause.

Approach of the regency.

[1] Hans. Deb., 1st Ser., xvii. 553, 577.

CHAPTER XIII.

History of Catholic Claims from the Regency: — Measures for the Relief of Dissenters: — Marriages of Catholics and Dissenters: — Repeal of the Corporation and Test Acts in 1828: — Passing of the Catholic Relief Act in 1829: — Its Results: — Quakers, Moravians, and Separatists: — Jewish Disabilities.

THE regency augured well for the commencement of a more liberal policy in church and state. The venerable monarch, whose sceptre was now wielded by a feebler hand, had twice trampled upon the petitions of his Catholic subjects; and, by his resolution and influence, had united against them ministers, Parliament, and people. It seemed no idle hope that Tory ministers would now be supplanted by statesmen earnest in the cause of civil and religious liberty, whose policy would no longer be thwarted by the influence of the crown. The prince himself, once zealous in the Catholic cause, had, indeed, been, for some years, inconstant, — if not untrue, — to it. His change of opinion, however, might be due to respect for his royal father, or the political embarrassments of the question. None could suspect him of cherishing intractable religious scruples.[1] Assuredly he would not reject the liberal counsels of the ministers of his choice. But these visions were soon to collapse and vanish, like bubbles in the air;[2] and the weary struggle was continued, with scarcely a change in its prospects.

Hopes of the regency disappointed.

[1] Moore's Life of Sheridan, ii. 333; Lord Brougham's Statesmen, i. 186; Lord Holland's Mem., ii. 196.

[2] Vol. I. 106.

The first year of the regency, however, was marked by the consummation of one act of toleration. The Grenville ministry had failed to secure freedom of religious worship to Catholic soldiers by legislation:[1] but they had partially secured that object by a circular to commanding officers. Orders to the same effect had since been annually issued by the commander-in-chief. The articles of war, however, recognized no right in the soldier to absent himself from divine service; and in ignorance or neglect of these orders, soldiers had been punished for refusing to attend the services of the established church. To repress such an abuse, the commander-in-chief issued general orders, in January 1811; and Mr. Parnell afterwards proposed a clause in the Mutiny Bill, to give legal effect to them. The clause was not agreed to; but, in the debate, no doubt was left that, by the regulations of the service, full toleration would henceforth be enjoyed by Catholic soldiers in the exercise of their religion.[2]

Freedom of worship to Roman Catholic soldiers.

March 11th, 1811.

Another measure, affecting dissenters, was conceived in a somewhat different spirit. Lord Sidmouth complained of the facility with which dissenting ministers were able to obtain certificates under the Act of 1779,[3] without any proof of their fitness to preach, or of there being any congregation requiring their ministrations. Some had been admitted who could not even read and write, but were prepared to preach by inspiration. One of the abuses resulting from this facility was the exemption of so many preachers from serving on juries, and from other civil duties. To correct these evils, he proposed certain securities, of which the principal was a certificate of fitness from six reputable householders, of the same persuasion as the minister seeking a license to preach.[4] His bill met with little favor. It was, at best, a trivial measure; but its policy was in the wrong direction.

Protestant Dissenting Ministers' Bill, 1811.

May 9th, 1811.

[1] *Supra*, p. 343.
[2] Hans. Deb., 1st Ser., xix. 350.
[3] *Supra*, p. 317.
[4] Hans. Deb., 1st Ser., xix. 1128–1140.

It ill becomes a state, which disowns any relations with dissenters, to intermeddle with their discipline. The dissenters rose up against the bill; and, before the second reading, the House was overwhelmed with their petitions. The government discouraged it: the Archbishop of Canterbury counselled its withdrawal: the leading peers of the liberal party denounced it; and Lord Sidmouth, standing almost alone, was obliged to allow his ill-advised measure to be defeated, without a division.[1]

Protestant Dissenting Ministers' Bill, 1812.

Lord Sidmouth's bill had not only alarmed the dissenters, but had raised legal doubts, which exposed them to further molestation.[2] And, in the next year, another bill was passed, with the grateful approval of the dissenters, by which they were relieved from the oaths and declaration required by the Toleration Act and the Act of 1779, and from other vexatious restrictions.[3] And in the following year, Mr. W. Smith obtained for Unitarians that relief which, many years before, Mr. Fox had vainly sought from the legislature.[4]

Unitarians' relief, 1813.

Nothing distinguished the tedious annals of the Catholic question in 1811, but a motion in one House, by Mr. Grattan, and in the other, by Lord Donoughmore, which met with their accustomed fate.[5] But, in 1812, the aspect of the Catholic question was, in some degree, changed. The claims of the Catholics, always associated with the peace and good government of Ireland, were now brought forward, in the form of a motion, by Lord Fitzwilliam, for a committee on the state of Ireland; and were urged

Catholic petitions, May 31st, June 18th, 1811.

Catholic question, 1812.

State of Ireland.

Jan. 31st.

[1] Hans. Deb., 1st Ser. xx. 233; Lord Sidmouth's Life, iii. 38–65; Brook's Hist. of Relig. Lib., ii. 386.

[2] Brook's Hist of Relig. Lib., ii. 394.

[3] 52 Geo. III. c. 155; Hans. Deb., 1st Ser., xxiii. 994, 1105, 1247; Lord Sidmouth's Life, iii. 65; Brook's Hist. of Relig. Lib., ii. 394.

[4] 53 Geo. III. c. 160; Brook's Hist. of Relig. Lib., ii. 395.

[5] Ayes, 83; Noes, 146, in the Commons. Hans. Deb., 1st Ser., xx. 369–427. Contents, 62; Non-contents, 121, in the Lords. Hans. Deb., 1st Ser., xx. 645–685; Grattan's Life, v. 376.

more on the ground of state policy than of justice. The debate was chiefly remarkable for a wise and statesmanlike speech of the Marquess of Wellesley. The motion was lost by a majority of eighty-three.[1] A few days afterwards, a similar motion was made in the House of Commons by Feb. 3d. Lord Morpeth. Mr. Canning opposed it in a masterly speech, — more encouraging to the cause than the support of most other men. Objecting to the motion in point of time alone, he urged every abstract argument in its favor; declared that the policy of enfranchisement must be progressive; and that since the obstacle caused by the king's conscientious scruples had been removed, it had become the duty of ministers to undertake the settlement of a question vital to the interests of the empire.[2] The general tone of the discussion was also encouraging to the Catholic cause; and after two nights' debate, the motion was lost by a majority of ninety-four, — a number increased by the belief that the motion implied a censure upon the executive government of Ireland.[3]

Another aspect in the Catholic cause is also observable in this year. Not only were petitions from the Catholics of England and Ireland more numerous and imposing: but Protestant noblemen, gentlemen of landed property, clergy, commercial capitalists, officers in the army and navy, and the inhabitants of large towns, added their prayers to those of their Catholic fellow-countrymen.[4] Even the universities of Oxford and Cambridge, which presented petitions against the Catholic claims, were much divided in opinion; and minorities, considerable in academic rank, earning, and numbers, were ranged on the other side.[5] Protestant sympathy.

[1] Hans. Deb., 1st Ser., xxi. 408–483. House adjourned at half-past six n the morning.

[2] It was in this speech that he uttered his celebrated exclamation, "Repeal the Union! restore the Heptarchy!"

[3] Hans. Deb., 1st Ser., xxi., 494, 605. The House adjourned at half-past five.

[4] Hans. Deb., 1st Ser., xxii. 452, 478, 482–706, &c.

[5] *Ibid.*, 462, 507; Grattan's Life, v. 467.

Thus fortified, motions in support of the Catholic claims were renewed in both Houses; and being now free from any implication of censure upon the government, were offered under more favorable auspices. That of the Earl of Donoughmore, in the House of Lords, elicited from the Duke of Sussex an elaborate speech in favor of the Catholic claims, which His Royal Highness afterwards edited with many learned notes. Who that heard the arguments of Lord Wellesley and Lord Grenville, could have believed that the settlement of this great question was yet to be postponed for many years? Lord Grenville's warning was like a prophecy. "I ask not," he said, "what in this case will be your ultimate decision. It is easily anticipated. We know, and it has been amply shown in former instances, — the cases of America and of Ireland have but too well proved it, — how precipitately necessity extorts what power has pertinaciously refused. We shall finally yield to these petitions. No man doubts it. Let us not delay the concession, until it can neither be graced by spontaneous kindness, nor limited by deliberative wisdom." The motion was defeated by a majority of seventy-two.[1]

Lord Donoughmore's motion, April 21st, 1812.

Mr. Grattan proposed a similar motion in the House of Commons, in a speech more than usually earnest and impassioned. In this debate, Mr. Brougham raised his voice in support of the Catholic cause, — a voice ever on the side of freedom.[2] And now Mr. Canning supported the motion, not only with his eloquence, but with his vote; and continued henceforth one of the foremost advocates of the Catholic claims. After two nights' debate Mr. Grattan's motion was submitted to the vote of an unusual number of members, assembled by a call of the House, and lost by a majority of eighty-five.[3]

Mr. Grattan's motion, April 23d, 1812.

[1] Contents, 102; Non-contents, 174. Hans. Deb., 1st Ser., xxii. 509-703. The House divided at five in the morning.

[2] Mr. Brougham had entered Parliament in 1810.

[3] Ayes, 215; Noes, 300. Hans. Deb., 1st Ser., xxii. 728, 860. The House adjourned at half-past six in the morning.

But this session promised more than the barren triumphs of debate. On the death of Mr. Perceval, the Marquess of Wellesley, being charged with the formation of a new administration, assumed, as the very basis of his negotiation, the final adjustment of the Catholic claims. The negotiation failed, indeed;[1] but the Marquess and his friends, encouraged by so unprecedented a concession from the throne sought to pledge Parliament to the consideration of this question in the next session. First, Mr. Canning, in the House of Commons, gained an unexampled victory. For years past, every motion favorable to this cause had been opposed by large majorities; but now his motion for the consideration of the laws affecting His Majesty's Roman Catholic subjects in Great Britain and Ireland, was carried by the extraordinary majority of one hundred and twenty-nine.[2]

Mr. Canning's motion, June 22d, 1812.

Shortly after this most encouraging resolution, the Marquess of Wellesley made a similar motion in the House of Lords,[3] where the decision was scarcely less remarkable. The lord chancellor had moved the previous question, and even upon that indefinite and evasive issue, the motion was only lost by a single vote.[4]

Lord Wellesley's motion, July 1st, 1812.

Another circumstance, apparently favorable to the cause, was also disclosed. The Earl of Liverpool's administration, instead of uniting their whole force against the Catholic cause, agreed that it should be an "open question;" and this freedom of action, on the part of individual members of the government, was first exercised in these debates. The introduction of this new element into the contest was a homage to the justice and reputation of the cause; but its promises were illusory Had the statesmen who espoused the Catholic claims stead-

The Catholic disabilities an open question in 1812.

[1] *Supra*, Vol. I. 109.

[2] Ayes. 235; Noes, 129. Hans. Deb., 1st Ser., xxiii. 633–710.

[3] Hans. Deb., 1st Ser., xxiii. 711, 814.

[4] Non-contents, 126; Contents, 125. Hans. Deb., 1st Ser., xxiii. 814–868.

fastly refused to act with ministers who continued to oppose them, it may be doubted whether any competent ministry could much longer have been formed upon a rigorous policy of exclusion. The influence of the crown and church might, for some time, have sustained such a ministry: but the inevitable conflict of principles would sooner have been precipitated.

Catholic claims, 1812-13.

Alarmed by the improved position of the Catholic question in Parliament, the clergy and strong Protestant party hastened to remonstrate against concession. The Catholics responded by a renewal of their reiterated appeals. In February, 1813, Mr. Grattan, in pursuance of the resolution of the previous session, moved the immediate consideration of the laws affecting the Roman Catholics, in a committee of the whole House. He was supported by Lord Castlereagh, and opposed by Mr. Peel. After four nights' debate, rich in maiden speeches, well suited to a theme which had too often tried the resources of more practised speakers, the motion was carried by a majority of forty.[1]

Mr. Grattan's motion, Feb. 25th, 1813.

March 9th, 1813.

In committee, Mr. Grattan proposed a resolution affirming that it was advisable to remove the civil and military disqualifications of the Catholics, with such exceptions as may be necessary for preserving the Protestant succession, the church of England and Ireland, and the church of Scotland. Mr. Speaker Abbot, free, for the first time, to speak upon this question, opposed the resolution. It was agreed to by a majority of sixty-seven.[2]

Mr. Grattan's bill, 1813.

The bill founded upon this resolution provided for the admission of Catholics to either House of Parliament, on taking one oath, instead of the oaths of allegiance, abjuration and supremacy, and the declarations against transubstantiation and the invocation of saints. On taking this oath, and without receiving the sacrament, Catho-

[1] Ayes, 264; Noes, 224. Hans. Deb., 1st Ser., xxiv. 747, 849, 879, 985.
[2] Ayes, 186; Noes, 119. Hans. Deb., 1st Ser., xxiv. 1194–1248.

lics were also entitled to vote at elections, to hold any civil and military office under the crown, except that of lord chancellor or lord-lieutenant of Ireland, and any lay corporate office. No Roman Catholic was to advise the crown, in the disposal of church patronage. Every person exercising spiritual functions in the church of Rome was required to take this oath, as well as another, by which he bound himself to approve of none but loyal bishops; and to limit his intercourse with the pope to matters purely ecclesiastical. It was further provided, that none but persons born in the United Kingdom, or of British parents, and resident there in, should be qualified for the episcopal office.[1]

After the second reading,[2] several amendments were introduced by consent,[3] mainly for the purpose of establishing a government control over the Roman Catholic bishops, and for regulating the relations of the Roman Catholic church with the see of Rome. These latter provisions were peculiarly distasteful to the Roman Catholic body, who resented the proposal as a surrender of the spiritual freedom of their church, in exchange for their own civil liberties.

The course of the bill, however, — thus far prosperous, — was soon brought to an abrupt termination. The indefatigable speaker, again released from his chair, moved, in the first clause, the omission of the words, "to sit and vote in either House of Parliament;" and carried his amendment by a majority of four.[4] The bill, having thus lost its principal provision, was immediately abandoned; and the Catholic question was nearly as far from a settlement as ever.[5]

Bill defeated, May 24th, 1813.

[1] Hans. Deb., 1st Ser., xxv. 1107; Peel's Mem., i. 354.

[2] *Ibid.*, xxvi. 171; Ayes, 245; Noes, 203.

[3] The bill as thus amended is printed in Hans. Deb., 1st Ser., xxvi. 271.

[4] *Ibid.*, 312–361; Ayes, 247; Noes, 251; Grattan's Life, v. 489–496.

[5] The speaker, elated by his victory, could not forbear the further satisfaction of alluding to the failure of the bill, in his speech to the Prince Regent, at the end of the session, — an act of indiscretion, if not disorder, which placed him in the awkward position of defending himself, in the chair, from a proposed vote of censure. From this embarrassment he was

This session, however, was not wholly unfruitful of benefit to the Catholic cause. The Duke of Norfolk succeeded in passing a bill, enabling Irish Roman Catholics to hold all such civil or military offices in England, as by the Act of 1793 they were entitled to hold in Ireland. It removed one of the obvious anomalies of the law, which had been admitted in 1807 even by the king himself.[1]

Roman Catholic Officers' Relief Bill, 1813.

This measure was followed, in 1817, by the Military and Naval Officers' Oaths Bill, which virtually opened all ranks in the army and navy to Roman Catholics and Dissenters.[2] Introduced by Lord Melvilles imply as a measure of regulation, it escaped the animadversion of the Protestant party, — ever on the watch to prevent further concessions to Catholics. A measure, denounced in 1807, as a violation of the constitution and the king's coronation oath, was now agreed to with the acquiescence of all parties. The church was no longer in danger: "no popery" was not even whispered. "It was some consolation for him to reflect," said Earl Grey, "that what was resisted, at one period, and in the hands of one man, as dangerous and disastrous, was adopted at another, and from a different quarter, as wise and salutary." [3]

Military and Naval Officers' Oaths Bill, 1817.

In 1815, the Roman Catholic body in Ireland being at issue with their parliamentary friends, upon the question of "securities," their cause languished and declined.[4] Nor, in the two following years, did it meet with any signal successes.[5]

Catholic claims, 1815–1817.

delivered by the kindness of his friends, and the good feeling of the House, rather than by the completeness of his own defence. — *Hans. Deb.*, 1st Ser., xxvi. 1224; *Ibid.*, xxvii. 465; Lord Colchester's Diary, ii. 453–458, 483–496; Romilly's Life, iii. 133.

[1] Hans. Deb., 1st Ser., xxvi. 639; 53 Geo. III. c. 128.

[2] 57 Geo. III. c. 92; Hans. Deb., 1st Ser., xxxvi. 1208; *Ibid.*, xl. 24; Butler's Hist. Mem., iv. 257.

[3] June 10th, 1819; Hans. Deb., 1st Ser., xl. 1042.

[4] May 18th and 30th; June 8th, 1815; Hans. Deb., 1st Ser., xxxi. 258, 474, 666.

[5] May 21st and June 21st, 1816; Hans. Deb., 1st Ser., xxxiv. 655, 1239;

In 1819, the general question of Catholic emancipation found no favor in either House ;[1] and in vain Earl Grey submitted a modified measure of relief. He introduced a bill for abrogating the declarations against the doctrines of transubstantiation and the invocation of saints, required to be taken [2] by civil and military officers, and members of both Houses of Parliament.[3] This measure was offered on the ground, that these declarations were simply tests of faith and doctrine, independent of any question of foreign spiritual supremacy. It had been admitted, on all hands, that no one ought to be excluded from office merely on account of his religious belief, — and that nothing would warrant such exclusion, but political tenets connected with religion which were, at the same time, dangerous to the state. The oath of supremacy guarded against such tenets ; but to stigmatize purely religious doctrines as "idolatrous and superstitious," was a relic of offensive legislation, contrary to the policy of later times. As a practical measure of relief the bill was wholly inoperative ; but even this theoretical legislation, — this assertion of a principle without legal consequences, — was resisted, as fraught with danger to the constitution ; and the second reading of the bill was accordingly denied by a majority of fifty-nine.[4]

1819.

Declaration against transubstantiation, May, 25th, 1819.

The weary struggle for Catholic emancipation survived its foremost champion. In 1820, Mr. Grattan was about to resume his exertions in the cause, when death overtook him. His last words bespoke his earnest convictions and sincerity. "I wished," said he, "to go to the House of Commons to testify with my last breath my

Death of Grattan.

May 9th and 16th, 1817; *Ibid.*, xxxvi. 301, 600; Mr. Grattan's motion on May 21st, 1816, was the only one carried — by a majority of 31.

[1] Commons, May 4th, Ayes, 241; Noes, 213. Hans. Deb., 1st Ser., xl. 6. Lords, May 17th, Contents, 106; Non-contents, 147. Hans. Deb., 1st Ser., xl. 386.

[2] By 25 Car. II. c. 2; and 30 Car. II. st. 2, c. 2.

[3] Hans. Deb., 1st Ser., xl. 748.

[4] Contents, 82; Non-contents, 141. Hans. Deb., 1st Ser., xl. 1034.

opinions on the question of Catholic emancipation: but I cannot. The hand of death is upon me." .... "I wish the question to be settled, because I believe it to be essential to the permanent tranquillity and happiness of the country, which are, in fact, identified with it." He also counselled the Catholics to keep aloof from the democratic agitations of that period.[1]

Mr. Plunket's bill, Feb. 28th. 1821.

The mantle of Mr. Grattan descended upon a fellow-countryman of rare eloquence and ability, — Mr. Plunket, who had already distinguished himself in the same cause. His first efforts were of happy augury. In February, 1821, in a speech replete with learning, argument, and eloquence, he introduced the familiar motion for a committee on the Roman Catholic oaths, which was carried by a majority of six.[2] His bill, founded upon the resolutions of this committee,[3] provided for the abrogation of the declarations against transubstantiation and the invocation of saints, and a legal interpretation of the oath of supremacy, in a sense not obnoxious to the consciences of Catholics. On the 16th of March the bill, after an animated debate, illustrated by one of Mr. Canning's happiest efforts, and generally characterized by moderation, was read a second time, by a majority of eleven.[4] In committee, provisions were introduced to regulate the relations of the Roman Catholic church with the state and with the see of Rome.[5] And at length, on the 2d of April, the bill was read a third time, and passed by a majority of nineteen.[6] The fate of this measure, thus far successful, was soon determined in the House of Lords. The Duke of York stood forth as its foremost opponent, saying

Rejected by the Lords, April 16th and 17th, 1821.

1 Statement by Mr. Becher, June 14th, 1820; Hans. Deb., 2d Ser., i 1065; Life of Grattan, by his Son, v. 541, 544, 549.

2 Ayes, 227; Noes, 221. Hans. Deb., 2d Ser., iv. 961.

3 *Ibid.*, 1066.

4 *Ibid.*, 1269; Ayes, 254; Noes, 243.

5 *Ibid.*, 1412–1489.

6 Ayes, 216; Noes, 197. Hans. Deb., 2d Ser., iv. 1523.

that "his opposition to the bill arose from principles which he had embraced ever since he had been able to judge for himself, and which he hoped he should cherish to the last day of his life." After a debate of two days, the second reading of the bill was refused by a majority of thirty-nine.[1]

Before the next session, Ireland was nearly in a state of revolt; and the attention of Parliament was first occupied with urgent measures of repression, — an Insurrection Bill, and the suspension of the Habeas Corpus Act. The Catholic question was now presented in a modified and exceptional form. A general measure of relief having failed again and again, it occurred to Mr. Canning that there were special circumstances affecting the disqualification of Catholic peers, which made it advisable to single out their case for legislation. And accordingly, in a masterly speech, — at once learned, argumentative, and eloquent, — he moved for a bill to relieve Roman Catholic Peers from their disability to sit and vote in the House of Lords. Peers had been specially exempted from taking Queen Elizabeth's oath of supremacy, because the queen was "otherwise sufficiently assured of the faith and loyalty of the temporal lords of her high court of parliament."[2] The Catholics of that order had, therefore, continued to exercise their right of sitting in the Upper House unquestioned, until the evil times of Titus Oates. The Act of 30 Charles II. was passed in the very paroxysm of excitement, which marked that period. It had been chiefly directed against the Duke of York, who had escaped from its provisions; and was forced upon the Lords by the earnestness and menaces of the Commons. Eighteen Catholic Peers had been excluded by it, of whom five were under arrest on charges of treason; and one, Lord Stafford, was attainted — in the judgment of history and posterity — unjustly. "It was passed under the same delusion, was forced through the House of Lords with the same

Disturbed state of Ireland, 1822.

Roman Catholic Peers' Bill, 1822.

April 30th.

[1] Contents, 120; Non-contents, 159. Hans. Deb., 2d Ser., v. 220, 279.
[2] 5 Eliz. c. 1, s. 17.

impulse, as it were, which brought Lord Stafford to the block." It was only intended as a temporary Act; and with that understanding was assented to by the king, as being "thought fitting at that time." Yet it had been suffered to continue ever since, and to deprive the innocent descendants of those peers of their right of inheritance. The Act of 1791 had already restored to Catholic peers their privilege of advising the crown, as hereditary councillors, of which the Act of Charles II. had also deprived them; and it was now sought to replace them in their seats in Parliament. In referring to the recent coronation, to which the Catholic peers had been invited, for the first time for upwards of 130 years, he pictured, in the most glowing eloquence, the contrast between their lofty position in that ceremony, and their humiliation in the senate, where "he who headed the procession of the peers to-day, could not sit among them as their equal on the morrow." Other Catholics might never be returned to Parliament; but the peer had the inherent hereditary right to sit with his peers; and yet was personally and invidiously excluded on account of his religion. Mr. Canning was opposed by Mr. Peel, in an able and temperate argument, and supported by the accustomed power and eloquence of Mr. Plunket. It was obvious that his success would carry the outworks, — if not the very citadel, — of the Catholic question; yet he obtained leave to bring in his bill by a majority of five.[1]

He carried the second reading by a majority of twelve;[2] after which he was permitted, by the liberality of Mr. Peel, to pass the bill through its other stages, without opposition.[3] But the Lords were still inexorable. Their stout Protestantism was not to be beguiled even by sympathy for their own order; and they refused a second reading to the bill, by a majority of forty-two.[4]

[1] Ayes, 249; Noes, 244. Hans. Deb. 2d Ser., vii. 211.
[2] *Ibid.*, 475. [3] *Ibid.*, 673.
[4] *Ibid.*, 1216; Court and Cabinets of Geo. IV., i. 306.

After so many disappointments, the Catholics were losing patience and temper. Their cause was supported by the most eminent members of the government; yet was it invariably defeated and lost. Neither argument nor numbers availed it. Mr. Canning was secretary of state for foreign affairs and leader of the House of Commons, and Mr. Plunket attorney-general for Ireland. But it was felt that so long as Catholic emancipation continued to be an open question, there would be eloquent debates, and sometimes a promising division, but no substantial redress. In the House of Commons, one secretary of state was opposed to the other; and in the House of Lords, the premier and the chancellor were the foremost opponents of every measure of relief. The majority of the cabinet, and the great body of the ministerial party, in both Houses, were adverse to the cause. This irritation burst forth on the presentation of petitions, before a motion of Mr. Plunket's. Sir Francis Burdett first gave expression to it. He deprecated "the annual farce," which trifled with the feelings of the people of Ireland. He would not assist at its performance. The Catholics would obtain no redress, until the government were united in opinion as to its necessity. An angry debate ensued, and a fierce passage of arms between Mr. Brougham and Mr. Canning. At length, Mr. Plunket rose to make his motion; when Sir Francis Burdett, accompanied by Mr. Hobhouse, Mr. Grey Bennet, and several other members of the opposition, left the House. Under these discouragements Mr. Plunket proceeded with his motion. At the conclusion of his speech, the House becoming impatient, refused to give any other members a fair hearing; and after several divisions, ultimately agreed, by a majority of upwards of two hundred, to an adjournment of the House.[1] This result, however unfavorable to the immediate issue of the Catholic question, was yet a significant warning that so important a measure could not much longer be discussed as an open question.

Position of the Catholic question in 1823.

April 17th, 1823.

[1] Ayes, 313; Noes, 111. Hans. Deb., 2d Ser., viii. 1070–1123

A smaller measure of relief was next tried in vain. Lord Nugent sought to extend to English Catholics the elective franchise, the commission of the peace, and other offices to which Catholics in Ireland were admissible by the Act of 1793. Mr. Peel assented to the justice and moderation of this proposal.[1] The bill was afterwards divided into two,[2] — the one relating to the elective franchise, and the other to the magistracy and corporate offices.[3] In this shape they were agreed to by the Commons, but both miscarried in the House of Lords.[4] In the following year, they were revived in the House of Lords by Lord Lansdowne, with no better success, though supported by five cabinet ministers.[5]

Lord Nugent's bill, May 28th, 1823.

Ineffectual attempts were also made, at this period, to amend the law of marriage, by which Catholics and dissenters were alike aggrieved. In 1819,[6] and again in 1822, Mr. William Smith presented the case of dissenters, and particularly of Unitarians. Prior to Lord Hardwicke's Marriage Act, dissenters were allowed to be married in their own places of worship; but under that Act the marriages of all but Jews and Quakers were required to be solemnized in church, by ministers of the establishment, and according to its ritual. At that time the Unitarians were a small sect, and had not a single place of worship. Having since prospered and multiplied, they prayed that they might be married in their own way. They were contented, however, with the omission from the marriage service, of passages relating to the Trinity; and Mr. Smith did not venture to propose a more rational and complete relief, — the marriage of dissenters in their own chapels.[7]

Marriage law amendment, 1819-1827.

Mr. W. Smith's bill, April 18th, 1822.

[1] Hans. Deb., 2d Ser., ix. 573.

[2] *Ibid.*, 1031.

[3] *Ibid.*, 1341.

[4] *Ibid.*, 1476; Lord Colchester's Diary, iii. 292, 299.

[5] May 24th, 1824; Hans. Deb., 2d Ser., xi. 817, 842; Lord Colchester's Diary, iii. 326.

[6] June 16th, 1819; Hans. Deb., 1st Ser., xl. 1200, 1503.

[7] Hans. Deb., 2d Ser., vi. 1460.

In 1823, the Marquess of Lansdowne proposed a more comprehensive measure, embracing Roman Catholics as well as dissenters, and permitting the solemnization of their marriages in their own places of worship. The chancellor, boasting "that he took as just a view of toleration as any noble Lord in that House could do," yet protested against "such mighty changes in the law of marriage." The Archbishop of Canterbury regarded the measure in a more liberal spirit; and merely objected to any change in the church service, which had been suggested by Lord Liverpool. The second reading of the bill was refused by a majority of six.[1] Lord Lansdowne's bill, June 12th, 1823.

In the following session, relief to Unitarians was again sought, in another form. Lord Lansdowne introduced a bill enabling Unitarians to be married in their own places of worship, after publication of bans in church and payment of the church fees. This proposal received the support of the Archbishop of Canterbury and the Bishop of London: but the chancellor, more sensitive in his orthodoxy, denounced it as "tending to dishonor and degrade the church of England." To the Unitarians he gave just offence, by expressing a doubt whether they were not still liable to punishment, at common law, for denying the doctrine of the Trinity.[2] The bill passed the second reading by a small majority: but was afterwards lost on going into committee, by a majority of thirty-nine.[3] Unitarian marriages. Lord Lansdowne's bill April 2d, May 4th, 1824.

Dr. Phillimore, with no better success, brought in another bill to permit the solemnization of marriages between Catholics, by their own priests, — still retaining the publication of bans or licenses, and the Roman Catholic marriages, April 13th, 1824.

1 Hans. Deb., 2d Ser., ix. 967.

2 See also Rex *v.* Curl, Strange, 789; State Tr., xvii. 154.

3 Hans. Deb., 2d Ser., xi., 75, 434; Twiss's Life of Eldon, ii. 512. Mr. C. Wynn, writing to the Duke of Buckingham, May 6th, 1824, said: — "You will, I am sure, though you doubted the propriety of the Unitarian Marriage Act, regret the triumphant majority of the intolerant party, who

payment of fees to the Protestant clergymen. Such a change in the law was particularly desirable in the case of Catholics, on grounds distinct from toleration. In the poorer parishes, large numbers were married by their own priests: their marriages were illegal, and their children, being illegitimate, were chargeable upon the parishes in which they were born.[1] This marriage law was even more repugnant to principles of toleration, than the code of civil disabilities. It treated every British subject, — whatever his faith, — as a member of the church of England; ignored all religious differences; and imposed, with rigorous uniformity, upon all communions alike, the altar, the ritual, the ceremonies, and the priesthood of the state. And under what penalties? — celibacy, or concubinage and sin!

Unitarian marriages, 1827.

Three years later, Mr. W. Smith renewed his measure, in a new form. It permitted Unitarian dissenters, after the publication of bans, to be married before a magistrate, — thus reviving the principle of a civil contract, which had existed before Lord Hardwicke's Act of 1752. This bill passed the Commons;[2] but failed in the Lords, by reason of the approaching prorogation.[3] And the revision of the law of marriage was left to await a more favorable opportunity.[4]

Lord Lansdowne's Catholic relief bills, May 24th, 1824.

Office of Earl Marshal, 1824.

In 1824, Lord Lansdowne vainly endeavored to obtain for English Catholics the elective franchise, the right to serve as justices of the peace, and to hold offices in the revenue.[5] But in the same year Parliament agreed to one act of courtly acknowledgment to a distinguished Catholic peer. An Act was passed, not without opposition, to enable the Duke

boast of it as a display of their strength, and a proof how little any power in the country can cope with them." — *Court and Cabinets of Geo. IV.* ii. 72

1 Hans. Deb., 2d Ser., xi. 408.

2 *Ibid.*, xvii. 1343.

3 *Ibid.*, 1407, 1426; Lord Colchester's Diary, iii. 520.

4 *Infra*, p. 392.

5 Hans. Deb., 2d Ser., xi. 842; Twiss's Life of Eldon, ii. 518.

of Norfolk to execute his hereditary office of Earl Marshal, without taking the oath of supremacy, or subscribing the declarations against transubstantiation and the invocation of saints.[1]

Meanwhile, the repeated failures of the Catholic cause had aroused a dangerous spirit of discontent in Ireland. The Catholic leaders, despairing of success over majorities unconvinced and unyielding, were appealing to the excited passions of the people; and threatened to extort from the fears of Parliament what they had vainly sought from its justice. To secure the peace of Ireland, the legislature was called upon, in 1825, to dissolve the Catholic Association:[2] but it was too late to check the progress of the Catholic cause itself, by measures of repression; and ministers disclaimed any such intention. Agitation in Ireland, 1823-25.

While this measure was still before Parliament, the discussion of the Catholic question was revived, on the motion of Sir Francis Burdett, with unusual spirit and effect. After debates of extraordinary interest, in which many members avowed their conversion to the Catholic cause,[3] a bill was passed by the Commons, framing a new oath in lieu of the oath of supremacy, as a qualification for office; and regulating the intercourse of Roman Catholic subjects, in Ireland, with the see of Rome. On reaching the House of Lords, however, this bill met the same fate as its predecessors; the second reading being refused by a majority of forty-eight.[5] Sir Francis Burdett's motion, Feb. 28th, 1825.

With a view to make the Catholic Relief Bill more acceptable, and at the same time to remove a great electoral abuse, Mr. Littleton had introduced a meas- Irish 40s. freeholders, 1825.

[1] Hans. Deb., 2d Ser., xi. 1455, 1470, 1482; 5 Geo. IV. c. 109; Lord Colchester's Diary, iii. 326; Twiss's Life of Eldon, ii. 521.

[2] *Supra*, p. 206.

[3] Feb. 28th, April 19th and 21st, May 10th, 1825.

[4] Hans. Deb., 2d Ser., xii. 764, 1151; *Ibid.*, xiii. 21, 71, 486. The second reading was carried by a majority of twenty-seven, and the third reading by twenty-one.

[5] May 17th. Contents, 130; Non-contents, 178. Hans. Deb., 2d Ser. xiii. 662.

ure for regulating the elective franchise in Ireland. Respecting vested interests, he proposed to raise the qualification of 40*s.* freeholders; and to restrain the creation of fictitious voters, who were entirely in the power of their landlords. By some this bill was regarded as an obnoxious measure of disfranchisement; but being supported by several of the steadiest friends of Ireland, and of constitutional rights, its second reading was agreed to. When the Catholic Relief Bill, however, was lost in the House of Lords, this bill was at once abandoned.[1]

Lord F. Leveson Gower's motion April 29th, 1825.

In April of this year, Lord Francis Leveson Gower carried a resolution, far more startling to the Protestant party than any measure of enfranchisement. He prevailed upon the Commons to declare the expediency of making provision for the secular Roman Catholic clergy, exercising religious functions in Ireland. It was one of those capricious and inconsequent decisions, into which the Commons were occasionally drawn in this protracted controversy, and was barren of results.

Mr. Canning's death.

In 1827, the hopes of the Catholics, raised for a time by the accession of Mr. Canning to the head of affairs, were suddenly cast down by his untimely death.

The Duke of Wellington's administration.

At the meeting of Parliament in 1828,[3] the Duke of Wellington's administration had been formed. Catholic emancipation was still an open question;[4] but the cabinet, represented in one House by the Duke and in the other by Mr. Peel, promised little for the cause of religious liberty. If compliance was not to be expected, still less was such a government likely to be coerced by fear. The great soldier at its head retained, for a time, the command of the army; and no minister knew so well as

1 Hans. Deb., 2d Ser., xiii. 126, 176, &c., 902.

2 Ayes, 205; Noes, 162. *Ibid.*, 308.

3 Lord Goderich's ministry had been formed and dissolved during the recess.

4 Peel's Mem., i. 12, 16.

he, how to encounter turbulence or revolt. In politics he had been associated with the old Tory school; and unbending firmness was characteristic of his temper and profession. Yet was this government on the very eve of accomplishing more for religious liberty, than all the efforts of its champions had effected in half a century.

The dissenters were the first to assault the Duke's strong citadel. The question of the repeal of the Corporation and Test Acts had slumbered for nearly forty years,[1] when Lord John Russell worthily succeeded to the advocacy of a cause, which had been illustrated by the genius of Mr. Fox. In moving for a committee to consider these Acts, he ably recapitulated their history, and advanced conclusive arguments for their repeal. The annual indemnity acts, though offering no more than a partial relief to dissenters, left scarcely an argument against the repeal of laws, which had been so long virtually suspended. It could not be contended that these laws were necessary for the security of the church; for they extended neither to Scotland nor to Ireland. Absurd were the number and variety of offices embraced by the Test Act; non-commissioned officers as well as officers, — excisemen, tide-waiters, and even pedlers. The penalties incurred by these different classes of men were sufficiently alarming, — forfeiture of the office, disqualification for another, incapacity to maintain a suit at law, to act as guardian or executor, or to inherit a legacy; and, lastly, a pecuniary penalty of 500*l.* Even if such penalties were never enforced, the law which mposed them was wholly indefensible. Nor was it forgotten igain to condemn the profanation of the holy sacrament y reducing it to a mere civil form, imposed upon persons who either renounced its sacred character, or might be spiritually unfit to receive it. Was it decent, it was asked,

Corporation and Test Acts, 1828.

Feb. 26th, 1828.

> "To make the symbols of atoning grace
> An office key, a pick-lock to a place?" [2]

[1] *Supra*, p. 324.

[2] Cowper's Expostulation, Works, i. p. 80, Pickering.

Nor was this objection satisfactorily answered by citing Bishop Sherlock's version, that receiving the sacrament was not the qualification for office, but the evidence of qualification. The existing law was defended on the grounds so often repeated: that the state had a right to disqualify persons on the ground of their religious opinions, if it were deemed expedient; that there was an established church inseparable from the state, and entitled to its protection; and that the admission of dissenters would endanger the security of that church.

Mr. Peel,— always moderate in his opposition to measures for the extension of religious liberty,— acknowledged that the maintenance of the Corporation and Test Acts was not necessary for the protection of the church; and opposed their repeal mainly on the ground that they were no practical grievance to the dissenters. After a judicious and temperate discussion on both sides, the motion was affirmed by a majority of forty-four.[1] The bill was afterwards brought in, and read a second time without discussion.[2]

Concurrence of the bishops.

The government, not being prepared to resign office in consequence of the adverse vote of the Commons, endeavored to avoid a conflict between the two Houses. The majority had comprised many of their own supporters, and attached friends of the established church; and Mr. Peel undertook to communicate with the Archbishop of Canterbury and other prelates, in order to persuade them to act in concert with that party, and share in the grace of a necessary concession.[3] These enlightened churchmen met him with singular liberality, and agreed to the substitution of a declaration for the sacramental test.[4] Lord John Russell and his friends, though satisfied that no such declaration was necessary, accepted it as a pledge that this important measure should be allowed to pass with the

[1] Ayes, 237; Noes, 193. Hans. Deb., 2d Ser., xviii. 676.
[2] *Ibid.*, 816, 1137.
[3] Peel's Mem., i. 69, 79.
[4] *Ibid.*, 70–98.

general acquiescence of all parties;[1] and the bill now proceeded through the House, without further opposition.[2]

In the House of Lords, the Archbishop of York, expressing the opinion of the primate as well as his own, "felt bound, on every principle, to give his vote for the repeal of an Act which had, he feared, led, in too many instances, to the profanation of the most sacred ordinance of our religion." "Religious tests imposed for political purposes must in themselves be always liable, more or less, to endanger religious sincerity." His grace accepted the proposed declaration as a sufficient security for the church. The bill was also supported, in the same spirit, by the Bishops of Lincoln, Durham, and Chester. The bill in the Lords, April 17th. 1828.

But there were lay peers, more alive to the interests of the church than the bench of bishops. Lord Winchelsea foresaw dangers, which he endeavored to avert by further securities; and Lord Eldon denounced the entire principle of the bill. He had little expected "that such a bill as that proposed would ever have been received into their Lordships' House;" and rated those who had abandoned their opposition to its progress in the Commons. This stout champion of the church, however, found no supporters to the emphatic "Not content," with which he encountered the bill; and its second reading was affirmed without a division.[3]

In committee, the declaration was amended by the insertion of the words "on the true faith of a Christian,"—an amendment which pointedly excluded the Jews, and gave rise to further legislation, at a later period.[4] Some other amendments were also made. Lord April 21st and 24th.

[1] Hans. Deb., 2d Ser., xviii. 1180. [2] *Ibid.*, 1330.

[3] *Ibid.*, 1450. Lord Eldon, in his private correspondence, called it "a most shameful bill,"—"as bad, as mischievous, and as revolutionary as the most captious dissenter could wish it to be." And again:—"The administration have, to their shame be it said, got the archbishops and most of the bishops to support this revolutionary bill."—*Twiss's Life of Lord Eldon*, iii. 37–45; Peel's Mem., i. 99.

[4] On the third reading, Lord Holland desired to omit the words, but without success.

Winchelsea endeavored to exclude Unitarians; and Lord Eldon to substitute an oath for a declaration, and to provide more effectual securities against the admission of Catholics; but these and other amendments, inconsistent with the liberal design of the measure, were rejected, and the bill passed.[1] The Lords' amendments, though little approved by the Commons, were agreed to, in order to set this long-vexed question at rest by an act of enlightened toleration.

April 28th. May 2d.

This measure was received with gratitude by dissenters; and the grace of the concession was enhanced by the liberality of the bishops, and the candor and moderation of the leading statesmen who had originally opposed it. The liberal policy of Parliament was fully supported by public opinion, which had undergone a complete revulsion upon this question. "Thirty years since," said Alderman Wood, "there were only two or three persons in the city of London favorable to the repeal: the other day, when the corporation met to petition for the repeal, only two hands were held up against the petition."

The Act passed.

The triumph of dissenters was of happy augury to the Catholic claims, which in a few days were again presented by Sir Francis Burdett. The preponderance of authority as well as argument was undeniably in favor of the motion. Several conversions were avowed; and the younger members especially showed an increasing adhesion to the cause of religious liberty.[2] After a debate of three nights, in which the principal supporters of the measure expressed the greatest confidence in its speedy triumph, the motion was carried by a majority of six.[3] A resolution was agreed to, that it was expedient to consider the laws affecting Roman Catholics, with a view to a final and conciliatory adjustment. Resolutions of this

Catholic claims.

Sir Francis Burdett's motion, May 8th, 1828.

[1] Hans. Deb., 2d Ser., xviii. 1571; xix. 39, 110, 156, 186.
[2] Peel's Mem., i. 102.
[3] Ayes, 272; Noes, 266. Hans. Deb., 2d Ser., xix. 375–675.

kind had, on former occasions, preceded the introduction of bills which afterwards miscarried ; but Sir Francis Burdett resolved to avoid the repetition of proceedings, so tedious and abortive. This resolution was accordingly communicated to the Lords, at a conference.[1] The Marquess of Lansdowne invited their Lordships to concur in this resolution, in a most forcible speech ; and was supported in the debate by the Dukes of Sussex and Gloucester, by Lord Goderich, the Marquess of Londonderry, Lord Plunket, the Marquess of Wellesley, and other peers. It was opposed by the Duke of Cumberland, the powerful Chancellor, — Lord Lyndhurst, — the ever-consistent Lord Eldon, the Duke of Wellington, and an overpowering number of speakers. After two nights' debate, the Lords refused to concur in this resolution, by a majority of forty-four.[2]

June 9th, 1828

But while these proceedings seemed as illusory as those of former years, popular agitation was approaching a crisis in Ireland,[3] which convinced the leading members of the administration that concessions could no longer be safely withheld.[4] Soon after this discussion, an event of striking significance marked the power and determination of the Irish people. Mr. Vesey Fitzgerald having vacated his seat for the county of Clare, on accepting office, found his reëlection contested by an opponent no less formidable than Mr. O'Connell. Under other circumstances, he could have confidently relied upon his personal popularity, his uniform support of the Catholic claims, his public services, and the property and influence which he enjoyed in his own county. But now all his pretensions were unavailing. The people were resolved that he should succumb to the champion of the Catholic cause ; and, after scenes of excitement and turbulence which

State of Ireland, 1828.

Clare election, June and July, 1828.

[1] Hans. Deb., 2d Ser., xix. 680, 767.
[2] *Ibid.*, 1133, 1214.
[3] *Supra*, p. 208.
[4] Peel's Mem., i. 129.

threatened a disturbance of the public peace, he was signally defeated.[1]

Doubtful fidelity of the Catholic soldiers in Ireland.

Perhaps no one circumstance contributed more than this election, to extort concessions from the government. It proved the dangerous power and organization of the Roman Catholic party. A general election, while such excitement prevailed, could not be contemplated without alarm.[2] If riots should occur, the executive were not even assured of the fidelity of Catholic soldiers, who had been worked upon by their priests. They could not be trusted against rioters of their own faith.[3]

Catholic Association.

The Catholic Association, however, continued to be the chief embarrassment to the government. It had made Ireland ripe for rebellion. Its leaders had but to give the word; but, believing their success assured, they were content with threatening demonstrations.[4] Out of an infantry force of 30,000 men, no less than 25,000 were held in readiness to maintain the peace of Ireland.[5] Such was the crisis, that there seemed no alternative between martial law and the removal of the causes of discontent. Nothing but open rebellion would justify the one; and the Commons had, again and again, counselled the other.[6]

[1] Mr. Vesey Fitzgerald, writing to Sir R. Peel, July 5th, 1828, said: — "I have polled all the gentry and all the fifty-pound freeholders, — the gentry to a man." . . . "All the great interests broke down, and the desertion has been universal. Such a scene as we have had! such a tremendous prospect as it opens to us!"... "The conduct of the priests has passed all that you could picture to yourself." — *Peel's Mem.*, i. 113.

[2] Peel's Mem., i. 117–122, *et seq.*

"This business," wrote Lord Eldon, "must bring the Roman Catholic question, which has been so often discussed, to a crisis and a conclusion. The nature of that conclusion I do not think likely to be favorable to Protestantism." — *Twiss's Life*, iii. 54.

[3] Lord Anglesey's Letters, July 20th, 26th, 1828; Peel's Mem., i. 127 158, 164.

[4] Lord Anglesey's Letter, July 2d, 1828; Peel's Mem., i. 147; *Ibid.*, 207, 243–262; *supra*, p. 209.

[5] Peel's Mem., i. 293.

[6] In each of "the five parliaments elected since 1807, with one exception, the House of Commons had come to a decision in favor of a consideration

In the judgment of Mr. Peel, the settlement of the Catholic question had, at length, become a political necessity; and this conviction was shared by the Duke of Wellington, the Marquess of Anglesey, and Lord Lyndhurst.[1] But how were ministers to undertake it? The statesmen who had favored Catholic claims had withdrawn from the ministry; and Lord Anglesey had been removed from the government of Ireland.[2] It was reserved for the Protestant party in the cabinet, to devise a measure which they had spent their lives in opposing. They would necessarily forfeit the confidence, and provoke the hostility, of their own political adherents; and could lay no claim to the gratitude or good will of the Catholics.

Necessity of Catholic relief acknowledged by ministers.

But another difficulty, even more formidable, presented itself, — a difficulty which, on former occasions, had alone sufficed to paralyze the efforts of ministers. The king evinced no less repugnance to the measure than his "revered and excellent father" had displayed, nearly thirty years before;[3] and had declared his determination not to assent to Catholic emancipation.[4]

Repugnance of the king;

The Duke of Wellington, emboldened by the success of Mr. Peel's former communications with the bishops on the Sacramental Test, endeavored to persuade them to support concessions to the Catholics. Their concurrence would secure the coöperation of the church and the House of Lords, and influence the reluctant judgment of the

and of the bishops.

of the Catholic question;" and Mr. Peel had long been impressed with the great preponderance of talent and influence on that side. — *Peel's Mem.*, i. 146; *Ibid.*, 61, 288, 289.

[1] Peel's Mem., i. 180, 181, 188, 284.

[2] The circumstances of his removal were fully discussed in the House of Lords, May 4th, 1829. — *Hans. Deb.*, 2d Ser., xx. 990.

[3] Peel's Mem., i. 274, 276. The king assured Lord Eldon that Mr. Canning had engaged that he would never allow his majesty "to be troubled about the Roman Catholic question." — *Peel's Mem.*, i. 275. But Sir R. Peel expresses his conviction that no such pledge had been given by Mr. Canning (*Ibid.*); and even Lord Eldon was satisfied that the king's statement was unfounded. — *Twiss's Life of Eldon*, 82.

[4] ord Colchester's Diary, iii. 380, 473.

king. But he found them resolutely opposed to his views; and the government were now alarmed, lest their opinions should confirm the objections of his majesty.

Embarrassment of ministers.

It was under these unpromising circumstances that, in January 1829, the time had arrived at which some definite course must be submitted to the king, in anticipation of the approaching session. It is not surprising that Mr. Peel should have thought such difficulties almost insuperable. "There was the declared opinion of the king, the declared opinion of the House of Lords, the declared opinion of the church, unfavorable to the measures we were about to propose;" and, as he afterwards added, "a majority, probably, of the people of Great Britain was hostile to concession."[1]

Proffered resignation of Mr. Peel.

Mr. Peel, considering the peculiarity of his own position, had contemplated the necessity of retirement;[2] but viewing with deep concern the accumulating embarrassments of the government, he afterwards placed his service at the command of the Duke of Wellington.[3]

The king consents to the measure.

At length, an elaborate memorandum by Mr. Peel having been submitted to the king, His Majesty gave audience to those members of his cabinet who had always opposed the Catholic claims; and then consented that the cabinet should submit their views on the state of Ireland, without pledging himself to concur in them, even if adopted unanimously.[4] A draft of the king's speech was accordingly prepared, referring to the state of Ireland, the necessity of restraining the Catholic Association, and of a review of the Catholic disabilities. To this draft the king gave a "reluctant consent;"[5] and it was, accordingly, delivered at the commencement of the session.

1 Peel's Mem., i. 278, 308.
2 Letter to Duke of Wellington, Aug. 11th, 1828. Peel's Mem., i. 184.
3 Letter, Jan. 12th, 1829. Peel's Mem., i. 283, 294, 295.
4 *Ibid.*, 297.
5 *Ibid.*, 310.

The government projected three measures, founded upon this speech, — the suppression of the Catholic Association, a Relief Bill, and a revision of the elective franchise in Ireland. Government measures.

The first measure submitted to Parliament was a bill for the suppression of dangerous associations or assemblies in Ireland. It met with general support. The opponents of emancipation complained that the suppression of the Association had been too long delayed. The friends of the Catholic claims, who would have condemned it separately, as a restraint upon public liberty, consented to it, as a necessary part of the measures for the relief of the Catholics and the pacification of Ireland.[1] Hence the bill passed rapidly through both Houses.[2] But before it became law, the Catholic Association was dissolved. A measure of relief having been promised, its mission was accomplished.[3] Associations Suppression Bill, Feb. 10th, 1829.

When this bill had passed the Commons, Mr. Peel accepted the Chiltern Hundreds, in order to give his constituents at Oxford an opportunity of expressing their opinion of his new policy. The Protestant feeling of the university was unequivocally pronounced. He was defeated by Sir Robert Inglis, and obliged to take refuge at Westbury. Mr. Peel loses his election at Oxford.

The civil disabilities of the Catholics were about to be considered, on the 5th of March, when an unexpected obstacle arose. On the 3d, the king commanded the attendance of the Duke of Wellington, the Lord Chancellor, and Mr. Peel on the following day. He then desired a more detailed explanation of the proposed measure. On finding that it was proposed to alter the oath of supremacy, his majesty refused his consent; and his three ministers at once tendered their resignation, which Further difficulties with the king.

[1] Hans. Deb., 2d Ser., xx. 177.

[2] *Ibid.*, 280, 519, &c.

[3] On Feb. 24th, Lord Anglesey said it was "defunct."

was accepted. Late the same evening, however, he desired them to withdraw their resignation, and gave his consent, in writing, to their proceeding with the proposed measure.[1]

Catholic Relief Bill, March 5th, 1829.

This last obstacle being removed, Mr. Peel opened his measure of Catholic emancipation to the House of Commons. In a speech of four hours, he explained the various circumstances, already described, which, in the opinion of the government, had made the emancipation of the Catholics a necessity. The measure itself was complete: it admitted Roman Catholics, — on taking a new oath, instead of the oath of supremacy, — to both Houses of Parliament, to all corporate offices, to all judicial offices, except in the ecclesiastical courts; and to all civil and political offices, except those of regent, lord chancellor in England and Ireland, and lord-lieutenant of Ireland. Restraints, however, were imposed upon the interference of Roman Catholics in the dispensation of church patronage. The government renounced the idea of introducing any securities, as they were termed, in regard to the Roman Catholic church and its relations to the state. When proposed at an earlier period, in deference to the fears of the opponents of emancipation,[2] they had offended Roman Catholics, without allaying the apprehensions of the Protestant party. But it was proposed to prevent the insignia of corporations from being taken to any place of religious worship except the established church, to restrain Roman Catholic bishops from assuming the titles of existing sees, to prevent the admission of Jesuits to this country, to insure the registration of those already here, and to discourage the extension of monastic orders. After two nights' debate, Mr. Peel's motion for going into committee of the whole House was

[1] Peel's Mem., i. 343–349. The king gave Lord Eldon a different version of this interview, evidently to excuse himself from consenting to a measure of which his old councillor disapproved so strongly. — *Twiss's Life of Eldon*, iii. 83.

[2] In 1813. *Supra*, p. 354.

agreed to by a majority of one hundred and eighty-eight.[1] Such was the change which the sudden conversion of the government and the pressure of circumstances had effected in the opinions of Parliament. Meanwhile, the church and the Protestant party throughout the country were in the greatest alarm and excitement. They naturally resented the sudden desertion of their cause by ministers in whom they had confided.[2] The press overflowed with their indignant remonstrances; and public meetings, addresses, and petitions gave tokens of their activity. Their petitions far outnumbered those of the advocates of the measure;[3] and the daily discussions upon their presentation served to increase the public excitement. The higher intelligence of the country approved the wise and equitable policy of the government; but there can be little question, that the sentiments of a majority of the people of Great Britain were opposed to emancipation. Churchmen dreaded it, as dangerous to their church; and dissenters inherited from their Puritan forefathers a pious horror of Papists. But in Parliament, the union of the ministerial party with the accustomed supporters of the Catholic cause easily overcame all opposition; and the bill was passed through its further stages, in the Commons, by large majorities.[4]

On the second reading of the bill in the House of Lords, the Duke of Wellington justified the measure, irrespective of other considerations, by the necessity of averting a civil war, saying, "If I could avoid, by any sacrifice whatever, even one month of civil war in the country to which I am attached, I would sacrifice my life in order to do it." He added, that when the Irish rebellion of 1798 had been suppressed, the Legislative Union had been proposed in the next year, mainly for

The bill in the Lords, April 2d, 1829.

[1] Ayes, 348; Noes, 160. Hans. Deb., 2d Ser., xx. 727-892.

[2] *Supra*, p. 66.

[3] See *supra*, Vol. I. 415.

[4] On the second reading — Ayes, 353; Noes, 173. Hans. Deb., 2d Ser., xx. 1115-1290. On the third reading — Ayes, 320; Noes, 142. *Ibid.*, 1633.

the purpose of introducing this very measure of concession; and that had the civil war, which he had lately striven to avert, broken out, and been subdued, — still such a measure would have been insisted upon by one, if not by both Houses of Parliament.

The bill was opposed by the Archbishop of Canterbury, — Dr. Howley, — in a judicious speech, in which he pointed out the practical evils to which the church and the Protestant religion might be exposed, by the employment of Roman Catholics as ministers of the crown, — especially in the office of secretary of state. It was also opposed in debate by the Archbishops of York and Armagh, the Bishops of Durham and London, and several lay peers. But of the Protestant party Lord Eldon was still the leader. Surrounded by a converted senate, severed from all his old colleagues, deserted by the peers who had hitherto cheered and supported him, — he raised his voice against a measure which he had spent a long life in resisting. Standing almost alone among the statesmen of his age, there was a moral dignity in his isolation, which commands our respect. The bill was supported by Mr. Peel's constant friend, the Bishop of Oxford, the Duke of Sussex, the Lord Chancellor, Lord Goderich, Earl Grey, Lord Plunket, and other peers. The second reading was affirmed by a majority of one hundred and five.[1] The bill passed through committee without a single amendment; and on the 10th of April the third reading was affirmed by a majority of one hundred and four.[2]

The Royal Assent.

Meanwhile the king, whose formal assent was still to be given, was as strongly opposed to the measure as ever; and even discussed with Lord Eldon the possibility of preventing its further progress, or of refusing his assent. But neither the king nor his old minister could seriously have contemplated so hazardous an exercise of prerogative; and the Royal assent was accordingly given,

[1] Contents, 217; Non-contents, 112. Hans. Deb., 2d Ser., xxi. 42–394.
[2] Contents, 213; Non-contents, 109. *Ibid.*, 614–694.

without further remonstrance.[1] The time had passed, when the word of a king could overrule his ministers and Parliament.

The third measure of the government still remains to be noticed, — the regulation of the elective franchise in Ireland. The abuses of the 40*s.* freehold franchise had already been exposed; and were closely connected with Catholic emancipation.[2] The Protestant landlords had encouraged the multiplication of small freeholds, — being, in fact, leases held of middlemen, — in order to increase the number of dependent voters, and extend their own political influence. Such an abuse would, at any time, have demanded correction; but now these voters had transferred their allegiance from the landlord to the Catholic priest. "That weapon," said Mr. Peel, "which the landlord has forged with so much care, and has heretofore wielded with such success, has broke short in his hand." To leave such a franchise without regulation, was to place the county representation at the mercy of priests and agitators. It was therefore proposed to raise the qualification of a freeholder from 40*s.* to 10*l.*, to require due proof of such qualification, and to introduce a system of registration.

Elective franchise in Ireland.

So large a measure of disfranchisement was, in itself, open to many objections. It swept away existing rights without proof of misconduct or corruption, on the part of the voters. So long as they had served the purposes of Protestant landlords, they were encouraged and protected; but when they asserted their independence, they were to be deprived of their franchise. Strong opinions were pronounced that the measure should not be retrospective; and that the *bonâ fide* 40*s.* freeholders, at least, should be protected;[3] but the con-

[1] Twiss's Life of Eldon, iii. 84, *et seq.*

[2] *Supra*, p. 365; and Reports of Committees in Lords and Commons, 1825.

[3] See especially the Speeches of Mr. Huskisson, Viscount Palmerston, and the Marquess of Lansdowne, Hans. Deb., 2d Ser., xx. 1373, 1468; xxi. 407, 574.

nection between this and the greater measure, then in progress, saved it from any effective opposition; and it was passed rapidly through both Houses.[1] By one party, it was hailed as a necessary protection against the Catholic priests and leaders; and by the other, it was reluctantly accepted as the price of Catholic emancipation.

Roman Catholic peers take the oaths, April 28th, May 1st, 1829.

On the 28th April, the Duke of Norfolk, Lord Clifford, and Lord Dormer came to the House of Lords, and claimed their hereditary seats among their peers, from which they had been so long excluded and were followed, a few days afterwards, by Lord Stafford, Lord Petre, and Lord Stourton.[2] Respectable in the antiquity of their titles and their own character, they were an honorable addition to the Upper House; and no one could affirm that their number was such as to impair the Protestant character of that assembly.

Mr. O'Connell and the Clare election.

Mr. O'Connell, as already stated, had been returned in the previous year for the county of Clare; but the privilege of taking the new oath was restricted to members returned after the passing of the Act. That Mr. O'Connell would be excluded from its immediate benefit, had been noticed while the bill was in progress; and there can be little doubt that its language had been framed for that express purpose. So personal an exclusion was a petty accompaniment of this great remedial measure. By Mr. O'Connell it was termed "an outlawry" against himself.

May 15th, 18th.

He contended ably, at the bar, for his right of admission: but the Act was too distinct to allow of an interpretation in his favor. Not being permitted to take

May 19th, 21st.

the new oath, and refusing, of course, to take the oath of supremacy, — a new writ was issued for the county of Clare.[3] Though returned again without opposition, Mr. O'Connell made his exclusion the subject of unmeas-

[1] Hans. Deb., 2d. Ser., xx. 1329.
[2] Lords' Journ., lxi. 402, 408.
[3] Hans. Deb., 2d Ser., xxi. 1395, 1459, 151.

ared invective ; and he entered the House of Commons, imbittered against those by whom he had been enfranchised.

At length this great measure of toleration and justice was accomplished. But the concession came too late. Accompanied by one measure of repression and another of disfranchisement, it was wrung by violence from reluctant and unfriendly rulers. Had the counsels of wiser statesmen prevailed, their political foresight would have averted the dangers before which the government, at length, had quailed. By rendering timely justice, in a spirit of conciliation and equity, they would have spared their country the bitterness, the evil passions, and turbulence of this protracted struggle. But thirty years of hope deferred, of rights withheld, of discontents and agitation, had exasperated the Catholic population of Ireland against the English government. They had overcome their rulers ; and owing them no gratitude, were ripe for new disorders.[1]

Emancipation too long deferred.

Catholic emancipation, like other great measures, fell short of the anticipations, alike of supporters and opponents. The former were disappointed to observe the continued distractions of Ireland, the fierce contentions between Catholics and Orangemen, the coarse and truculent agitation by which the ill-will of the people was excited against their rulers, the perverse spirit in which every effort for the improvement of Ireland was received, and the unmanageable elements of Irish representation. But a just and wise policy had been initiated ; and henceforth statesmen strove to correct those social ills, which had arrested the prosperity of that hopeful country. With the Catholic Relief Act commenced the regeneration of Ireland.

Sequel of emancipation.

On the other hand, the fears of the anti-Catholic party for the safety of the church and constitution, have been faintly realized. They dreaded the introduction of a dangerous proportion of Catholic members into the House of Commons. The results, however, have fairly corresponded with the natural repre-

Number of Catholic members in the House of Commons.

[1] See *supra*, p. 209.

sentation of the three countries. No more than six Catholics have sat, in any parliament, for English constituencies. Not one has ever been returned for Scotland. The largest number representing Catholic Ireland, in any parliament, amounted to fifty-one, — or less than one half the representation of that country, — and the average, in the last seven parliaments, to no more than thirty-seven.[1] In these parliaments again, the total number of Roman Catholic members may be computed at about one sixteenth of the House of Commons. The Protestant character of that assembly is unchanged.

Quakers, Moravians, and Separatists.

To complete the civil enfranchisement of dissenters, a few supplementary measures were still required. They could only claim their rights on taking an oath; and some sects entertained conscientious objections to an oath, in any form. Numerous statutes had been passed to enable Quakers to make affirmations instead of oaths;[2] and in 1833, the House of Commons, giving a wide interpretation to these statutes, permitted Mr. Pease, — the first Quaker who had been elected for 140 years, — to take his seat on making an affirmation.[3] In the same year, Acts were passed to enable Quakers, Moravians, and Separatists, in all cases, to substitute an affirmation for an

[1] *Number of Roman Catholic Members returned for England and Ireland since the year* 1835*: from the Test Rolls of the House of Commons; the earlier Test Rolls having been destroyed by fire, in* 1834.

	ENGLAND.	IRELAND.
New Parliament 1835	2	38
Do. 1837	2	27
Do. 1841	6	33
Do. 1847	5	44
Do. 1852	3	51
Do. 1857 to 1858	1 Arundel	34
Do. 1859	1 Arundel	34

These numbers, including members returned for vacancies, are sometimes slightly in excess of the Catholics sitting at the same time.

[2] 6 Anne, c. 23; 1 Geo. I. st. 2, c. 6 and 13; 8 Geo. I. c. 6; 22 Geo. II. c. 46

[3] See Report of the Select Committee on his Case, Sess. 1833, No. 6.

oath.[1] The same privilege was conceded, a few years later, to dissenters of more dubious denomination, who, having been Quakers or Moravians, had severed their connection with those sects, but had retained their scruples concerning the taking of an oath.[2] Nor have these been barren concessions; for several members of these sects have since been admitted to Parliament; and one, at least, has taken a distinguished part in its debates.

Jewish disabilities

Relief to dissenters and Roman Catholics had been claimed on the broad ground that, as British subjects, they were entitled to their civil rights, without the condition of professing the religion of the state. And in 1830, Mr. Robert Grant endeavored to extend this principle to the Jews. The cruel persecutions of that race form a popular episode in the early history of this country; but at this time they merely suffered, in an aggravated form, the disabilities from which Christians had recently been liberated. They were unable to take the oath of allegiance, as it was required to be sworn upon the Evangelists. Neither could they take the oath of abjuration, which contained the words, "on the true faith of a Christian." Before the repeal of the Corporation and Test Acts, they had been admitted to corporate offices, in common with dissenters, under cover of the annual indemnity acts; but that measure, in setting dissenters free, had forged new bonds for the Jew. The new declaration was required to be made "on the true faith of a Christian." The oaths of allegiance and abjuration had not been designed, directly or indirectly, to affect the legal position of the Jews. The declaration had, indeed, been sanctioned with a forecast of its consequences; but was one of several amendments which the Commons were constrained to accept from the Lords, to secure the passing of an important measure.[3] The operation of the law was fatal to nearly all the

Mr R. Grant's motion, April 5th, 1830.

[1] 3 & 4 Will. IV. c. 49, 82. [2] 1 & 2 Vict. c. 77

[3] See *supra*, p. 369.

rights of a citizen. A Jew could not hold any office, civil, military, or corporate. He could not follow the profession of the law, as barrister or attorney, or attorney's clerk: he could not be a schoolmaster, or usher at a school. He could not sit as a member of either House of Parliament; nor even exercise the elective franchise, if called upon to take the electors' oath.

Arguments on either side.

Mr. Grant advocated the removal of these oppressive disabilities in an admirable speech, embracing nearly every argument which was afterwards repeated, again and again, in support of the same cause. He was brilliantly supported, in a maiden speech, by Mr. Macaulay, who already gave promise of his future eminence. In the hands of his opponents, the question of religious liberty now assumed a new aspect. Those who had resisted, to the last, every concession to Catholics, had rarely ventured to justify their exclusion from civil rights on the ground of their religious faith. They had professed themselves favorable to toleration; and defended a policy of exclusion, on political grounds alone. The Catholics were said to be dangerous to the state: their numbers, their organization, their allegiance to a foreign power, the ascendency of their priesthood, their peculiar political doctrines, their past history, — all testified to the political dangers of Catholic emancipation. But nothing of the kind could be alleged against the Jews. They were few in number, being computed at less than 30,000, in the United Kingdom. They were harmless and inactive in their relations to the state, and without any distinctive political character. It was, indeed, difficult to conceive any political objections to their enjoyment of civil privileges; — yet some were found. They were so rich, that, like the nabobs of the last century, they would buy seats in Parliament; — an argument, as it was well replied, in favor of a reform in Parliament, rather than against the admission of Jews. If of any value, it applied with equal force to all rich men, whether Jews or Christians. Again, they were of no coun-

try; — they were strangers in the land, and had no sympathies with its people. Relying upon the scriptural promises of restoration to their own Holy Land, they were not citizens, but sojourners, in any other. But if this were so, would they value the rights of citizenship, which they were denied? Would they desire to serve a country, in which they were aliens? And was it the fact that they were indifferent to any of those interests, by which other men were moved? Were they less earnest in business, less alive to the wars, policy, and finances of the state; less open to the refining influences of art, literature, and society? How did they differ from their Christian fellow-citizens, "save these bonds"? Political objections to the Jews were, indeed, felt to be untenable; and their claims were therefore resisted on religious grounds. The exclusion of Christian subjects from their civil rights had formerly been justified because they were not members of the established church. Now that the law had recognized a wider toleration, it was said that, the state, its laws, and institutions being Christian, the Jews, who denied Christ, could not be suffered to share with Christians the government of the state. Especially was it urged, that to admit them to Parliament would unchristianize the legislature.

The House of Commons, which twelve months before had passed the Catholic Relief Bill by vast majorities, permitted Mr. Grant to bring in his bill by a majority of eighteen only;[1] and afterwards refused it a second reading by a majority of sixty-three.[2] The arguments by which it was opposed were founded upon a denial of the broad principle of religious liberty; and mainly on that ground were the claims of the Jews for many years resisted. But the history of this long and

Jewish Relief Bill lost on second reading. May 17th, 1830.

[1] Hans. Deb., 2d Ser., xxiii. 1287.

[2] *Ibid.*, xxiv. 785. See also Macaulay's Essays, i. 308; Goldsmid's Civil Disabilities of British Jews, 1830; Blunt's Hist. of the Jews in England; First Report of Criminal Law Commission, 1845, p. 13.

tedious controversy must be briefly told. To pursue it through its weary annals were a profitless toil.

Jewish disabilities bills, 1833–34.

In 1833, Mr. Grant renewed his measure, and succeeded in passing it through the Commons; but the Lords rejected it by a large majority.[1] In the next year, the measure met a similar fate.[2] The determination of the Lords was clearly not to be shaken; and, for some years, no further attempts were made to press upon them the reconsideration of similar measures. The Jews were, politically, powerless: their race was unpopular, and exposed to strongly rooted prejudice; and their cause, — however firmly supported on the ground of religious liberty, — had not been generally espoused by the people, as a popular right.

Jews admitted to corporations.

But while vainly seeking admission to the legislature, the Jews were relieved from other disabilities. In 1839, by a clause in Lord Denman's Act for amending the laws of evidence, all persons were entitled to be sworn in the form most binding on their conscience.[3] Henceforth the Jews could swear upon the Old Testament the oath of allegiance, and every other oath not containing the words "on the true faith of a Christian." These words, however, still excluded them from corporate offices and from Parliament. In 1841, Mr. Divett succeeded in passing through the Commons a bill for the admission of Jews to corporations; but it was rejected by the Lords.[4] In 1845, however, the Lords, who had rejected this bill, accepted another, to the same effect, from the hands of Lord Lyndhurst.[5]

Parliament alone was now closed against the Jews. In

[1] Contents, 54; Non-contents, 104. Hans. Deb., 3d Ser., xvii. 205; xviii. 59; xx. 249.

[2] The second reading was lost in the Lords by a majority of 92. Hans. Deb., 3d Ser., xxii. 1372; *Ibid.*, xxiii. 1158, 1349; *Ibid.*, xxiv. 382, 720.

[3] 1 & 2 Vict. c. 105.

[4] Hans. Deb., 3d Ser., lvi. 504; lvii. 99; lviii. 1458.

[5] 8 & 9 Vict. c. 52; Hans. Deb., 3d Ser., lxxviii. 407, 415; First Report of Criminal Law Commission, 1845 (Religious Opinions), 43.

1848, efforts to obtain this privilege were renewed without effect. The Lords were still inexorable. Enfranchisement by legislative authority appeared as remote as ever; and attempts were therefore made to bring the claims of Jewish subjects to an issue, in another form.

In 1849, Baron Lionel Nathan de Rothschild was returned as one of the members for the city of London. The choice of a Jew to represent such a constituency attested the state of public opinion, upon the question in dispute between the two Houses of Parliament. It may be compared to the election of Mr. O'Connell, twenty years before, by the county of Clare. It gave a more definite and practical character to the controversy. The grievance was no longer theoretical: there now sat below the bar a member legally returned by the wealthiest and most important constituency in the kingdom; yet he looked on as a stranger. None could question his return; no law affirmed his incapacity: then how was he excluded? by an oath designed for Roman Catholics, whose disabilities had been removed. He sat there, for two sessions, in expectation of relief from the legislature; but being again disappointed, he resolved to try his rights under the existing law. Accordingly, in 1850, he presented himself at the table, for the purpose of taking the oaths. Having been allowed, after discussion, to be sworn upon the Old Testament, — the form most binding upon his conscience, — he proceeded to take the oaths. The oaths of allegiance and supremacy were taken in the accustomed form; but from the oath of abjuration he omitted the words "on the true faith of a Christian," as not binding on his conscience. He was immediately directed to withdraw; when, after many learned arguments, it was resolved that he was not entitled to sit or vote until he had taken the oath of abjuration in the form appointed by law.[1]

Baron Lionel de Rothschild returned for the city of London, 1849.

Claims to be sworn, July 26th, 29th. 30th, and Aug. 5th, 1850.

[1] Commons' Journ., cv. 584, 590, 612; Hans. Deb., 3d Ser., cxiii. 297, 396, 486, 769

In 1851, a more resolute effort was made to overcome the obstacle offered by the oath of abjuration. Mr. Alderman Salomons, a Jew, having been returned for the borough of Greenwich, omitted from the oath the words which were the Jews' stumbling-block. Treating these words as immaterial, he took the entire substance of the oath, with the proper solemnities. He was directed to withdraw; but on a later day, while his case was under discussion, he came into the House, and took his seat within the bar, whence he declined to withdraw, until he was removed by the Sergeant-at-Arms. The House agreed to a resolution, in the same form as in the case of Baron de Rothschild. In the mean time, however, he had not only sat in the House, but had voted in three divisions;[1] and if the House had done him injustice, there was now an opportunity for obtaining a judicial construction of the statutes by the courts of law. By the judgment of the Court of Exchequer, affirmed by the Court of Exchequer Chamber, it was soon placed beyond further doubt, that no authority, short of a statute, was competent to dispense with those words which Mr. Salomons had omitted from the oath of abjuration.

Mr. Alderman Salomons, July 18th, 1851.

There was now no hope for the Jews, but in overcoming the steady repugnance of the Lords; and this was vainly attempted, year after year. Recent concessions, however, had greatly strengthened the position of the Jews. When the Christian character of our laws and constitution were again urged as conclusive against their full participation in the rights of British subjects,[2] Lord John Russell, and other friends of religious liberty were able to reply: — Let us admit to the fullest extent that our country is Christian, — as it is; that our laws are Christian, — as

Further legislative efforts.

[1] Commons' Journ., cvi. 372, 373, 381, 407; Hans. Deb., 3d Ser., cxviii. 979, 1320.

[2] See especially the speeches of Mr. Whiteside and Mr. Walpole, April 15th, 1853, on this view of the question. — *Hans. Deb.*, 3d Ser., cxxv. 1230 1263.

they are; that our government, as representing a Christian country, is Christian, — as it is: — what then? Will the removal of civil disabilities from the Jews unchristianize our country, our laws, and our government? They will all continue the same, unless you can argue that because there are Jews in England, therefore the English people are not Christian; and that because the laws permit Jews to hold land and houses, to vote at elections, and to enjoy municipal offices, therefore our laws are not Christian. We are dealing with civil rights; and if it be unchristian to allow a Jew to sit in Parliament, — not as a Jew, but as a citizen, — it is equally unchristian to allow a Jew to enjoy any of the rights of citizenship. Make him once more an alien, or cast him out from among you altogether.[1]

Attempt to admit the Jews by a declaration, Aug. 3d, 1857.

Baron de Rothschild continued to be returned again and again for the city of London, — a testimony to the settled purpose of his constituents;[2] but there appeared no prospect of relief. In 1857, however, another loophole of the law was discovered, through which a Jew might possibly find his way into the House of Commons. The annual bill for the removal of Jewish disabilities had recently been lost, as usual, in the House of Lords, when Lord John Russell called attention to the provisions of a statute,[3] by which it was contended that the Commons were empowered to substitute a new form of declaration for the abjuration oath. If this were so, the words "on the true faith of a Christian" might be omitted; and the Jew would take his seat, without waiting longer for the concurrence of the Lords.[4] But a committee, to whom the matter was referred, did not support this ingenious con-

[1] See especially Lord J. Russell's Speech, April 15th, 1853. — *Ibid.*, 1283.

[2] In 1857 he placed his seat at the disposal of the electors, by accepting the Chiltern Hundreds, but was immediately reëlected. Commons' Journ. cxii. 343; Ann. Reg. Chron. 141.

[3] 5 & 6 Will. IV. c. 62.

[4] Hans. Deb., 3d Ser., clvii. 933.

struction of the law;[1] and again the case of the Jews was remitted to legislation.

Jewish Relief Act, 1858.

In the following year, however, this tedious controversy was nearly brought to a close. The Lords, yielding to the persuasion of the Conservative premier, Lord Derby, agreed to a concession. The bill, as passed by the Commons, at once removed the only legal obstacle to the admission of the Jews to Parliament. To this general enfranchisement the Lords declined to assent; but they allowed either house, by resolution, to omit the excluding words from the oath of abjuration. The Commons would thus be able to admit a Jewish member, the Lords to exclude a Jewish peer. The immediate object of the law was secured; but what was the principle of this compromise? Other British subjects held their rights under the law: the Jews were to hold them at the pleasure of either House of Parliament. The Commons might admit them to-day, and capriciously exclude them to-morrow. If the crown should be advised to create a Jewish peer, assuredly the Lords would deny him a place amongst them. On these grounds, the Lords' amendments found little favor with the Commons; but they were accepted, under protest, and the bill was passed.[2] The evils of the compromise were soon apparent. The House of Commons was, indeed, opened to the Jew; but he came as a suppliant. Whenever a resolution was proposed, under the recent Act,[3] invidious discussions were renewed, — the old sores were probed. In claiming his new franchise, the Jew might still be reviled and insulted. Two years later, this scandal was corrected; and the Jew, though still holding his title by a standing order of the Commons

[1] Report of Committee, Sess. 2, 1857, No. 253.

[2] 21 & 22 Vict. c. 48, 49; Comm. Journ., cxiii. 338; Hans. Deb., 3d Ser, cli. 1905.

[3] A resolution was held not to be in force after a prorogation; Report of Committee, Sess. 1, 1859, No. 205.

and not under the law, acquired a permanent settlement.[1] Few of the ancient race have yet profited by their enfranchisement;[2] but their wealth, station, abilities, and character have amply attested their claims to a place in the legislature.

[1] 23 & 24 Vict. c. 63. By this Act a standing order, which continues in force until repealed, took the place of a resolution which required to be renewed sessionally.

[2] Four Jews were returned to the Parliament of 1859.

CHAPTER XIV.

Further Measures of Relief to Dissenters: — Church Rates: — Later History of the Church of England: — Progress of Dissent: — The Papal Aggression, 1850: — The Church of Scotland: — The Patronage Question: — Conflict of Civil and Ecclesiastical Jurisdictions: —The Secession, 1843: — The Free Church of Scotland: — The Church in Ireland.

THE code of civil disabilities had been at length condemned: but during the protracted controversy which led to this result, many other questions affecting religious liberty demanded a solution. Further restraints upon religious worship were renounced; and the relations of the church to those beyond her communion reviewed in many forms. Meanwhile, the later history of the established churches, in each of the three kingdoms, was marked by memorable events, affecting their influence and stability.

Other questions affecting the church and religion.

When Catholics and dissenters had shaken off their civil disabilities, they were still exposed to grievances affecting the exercise of their religion and their domestic relations, far more galling, and savoring more of intolerance. Their marriages were announced by the publication of bans in the parish church; and solemnized at its altar, according to a ritual which they repudiated. The births of their children were without legal evidence, unless they were baptized by a clergyman of the church, with a service obnoxious to their consciences; and even their dead could not obtain a Christian burial, except by the offices of the church. Even apart from religious scruples upon these matters, the enforced attendance

Dissenters' births, marriages, and burials.

of dissenters at the services of the church was a badge of inferiority and dependence, in the eye of the law. Nor was it without evils and embarrassments to the church herself. To perform her sacred offices for those who denied their sanctity, was no labor of love to the clergy. The marriage ceremony had sometimes provoked remonstrances; and the sacred character of all these services was impaired when addressed to unwilling ears, and used as a legal form, rather than a religious ceremony. It is strange that such grievances had not been redressed even before dissenters had been invested with civil privileges. The law had not originally designed to inflict them; but simply assuming all the subjects of the realm to be members of the Church of England, had made no provision for exceptional cases of conscience. Yet when the oppression of the marriage law had been formerly exposed,[1] intolerant Parliaments had obstinately refused relief. It was reserved for the reformed Parliament to extend to all religious sects entire freedom of conscience, coupled with great improvements in the general law of registration. As the church alone performed the religious services incident to all baptisms, marriages, and deaths; so was she intrusted with the sole management and custody of the registers. The relief of dissenters, therefore, involved a considerable interference with the privileges of the church, which demanded a judicious treatment.

The marriage law was first approached. In 1834, Lord John Russell — to whom dissenters already owed so much — introduced a bill to permit dissenting ministers to celebrate marriages in places of worship licensed for that purpose. It was proposed, however, to retain the accustomed publication of bans in church, or a license. Such marriages were to be registered in the chapels where they were celebrated. There were two weak points in this measure,— of which Lord John himself was fully sensible, — the publication of bans, and the registry. These

Dissenters' Marriage Bill, Feb. 25th, 1834.

[1] *Supra*, p. 362.

difficulties could only be completely overcome by regarding marriage, for all legal purposes, as a civil contract, accompanied by a civil registry; but he abstained from making such a proposal, in deference to the feelings of the church and other religious bodies.[1] The bill, in such a form as this, could not be expected to satisfy dissenters; and it was laid aside.[2] It was clear that a measure of more extensive scope would be required, to settle a question of so much delicacy.

Sir Robert Peel's Dissenters' Marriage Bill, March 17th, 1835.

In the next session, Sir Robert Peel, having profited by this unsuccessful experiment, offered another measure, based on different principles. Reverting to the principle of the law, prior to Lord Hardwicke's Act of 1754, which viewed marriage, for certain purposes at least, as a civil contract, he proposed that dissenters objecting to the services of the church should enter into a civil contract of marriage before a magistrate, — to be followed by such religious ceremonies elsewhere, as the parties might approve. For the publication of bans he proposed to substitute a notice to the magistrate, by whom also a certificate was to be transmitted to the clergyman of the parish, for registration. The liberal spirit of this measure secured it a favorable reception; but its provisions were open to insuperable objections. To treat the marriage of members of the church as a religious ceremony, and the marriage of dissenters as a mere civil contract, apart from any religious sanction, raised an offensive distinction between the two classes of marriages. And again, the ecclesiastical registry of a civil contract, entered into by dissenters, was a very obvious anomaly. Lord John Russell expressed his own conviction that no measure would be satisfactory until a general system of civil registration could be established, — a subject to which he had already directed his attention.[3] The progress of this bill was interrupted by the resignation of Sir R. Peel

[1] Hans. Deb., 3d Ser., xxi. 776. [2] Com. Journ., lxxxix. 226.
[3] Hans. Deb., 3d Ser., xxvi. 1073.

The new ministry, having consented to its second reading, allowed it to drop; but measures were promised in the next session for the civil registry of births, marriages, and deaths, and for the marriage of dissenters.[1] May 22d, 1835. June 29th.

Early in the next session, Lord John Russell introduced two bills to carry out these objects. The first was for the registration of births, marriages, and deaths. Its immediate purpose was to facilitate the granting of relief to dissenters; but it also contemplated other objects of state policy, of far wider operation. An accurate record of such events is important as evidence in all legal proceedings; and its statistical and scientific value cannot be too highly estimated. The existing registry being ecclesiastical took no note of births, but embraced the baptisms, marriages, and burials, which had engaged the services of the church. It was now proposed to establish a civil registration of births, marriages, and deaths, for which the officers connected with the new poor-law administration afforded great facilities. The record of births and deaths was to be wholly civil; the record of marriages was to be made by the minister performing the ceremony, and transmitted to the registrar. The measure further provided for a general register office in London, and a division of the country into registration districts.[2] Register of births, marriages, and deaths, Feb. 12th, 1836.

The Marriage Bill was no less comprehensive. The marriages of members of the Church of England were not affected, except by the necessary addition of a civil registry. The publication of bans, or license, was continued, unless the parties themselves preferred giving notice to a registrar. The marriages of dissenters were allowed to be solemnized in their own chapels, registered for that purpose, after due notice to the registrar of the district; while those few dissenters who desired no religious ceremony, Dissenters' Marriage Bill, Feb. 12th, 1836

[1] Hans. Deb., 3d Ser., xxix. 11.
[2] *Ibid.*, xxxi. 367.

were enabled to enter into a civil contract before the superintendent registrar.[1] Measures, so comprehensive and well considered, could not fail to obtain the approval of Parliament. Every religious sect was satisfied: every object of state policy attained. The church, indeed, was called upon to make great sacrifices; but she made them with noble liberality. Her clergy bore their pecuniary losses without a murmur, for the sake of peace and concord. Fees were cheerfully renounced with the services to which they were incident. The concessions, so gracefully made, were such as dissenters had a just right to claim, and the true interests of the church were concerned in no longer withholding.

Dissenters' burials.

In baptism and marriage, the offices of the church were now confined to her own members, or to such as sought them willingly. But in death, they were still needed by those beyond her communion. The church claimed no jurisdiction over the graves of her nonconformist brethren; but every parish burial-place was hers. The churchyard, in which many generations of churchmen slept, was no less sacred than the village-church itself; yet here only could the dissenter find his last resting-place. Having renounced the communion of the church while living, he was restored to it in death. The last offices of Christian burial were performed over him, in consecrated ground, by the clergyman of the parish, and according to the ritual of the church. Nowhere was the painfulness of schism more deeply felt, on either side. The clergyman reluctantly performed the solemn service of his church, in presence of mourners who seemed to mock it, even in their sorrow. Nay, some of the clergy, — having scruples, not warranted by the laws of their church, — even refused Christian burial to those who

[1] Hans. Deb., 3d Ser., xxxi. 367; 6 & 7 Will. IV. c. 85, 86, amended by 1 Vict. c. 22. In 1852 the registration of chapels for all other purposes as well as marriages was transferred to the registrar-general. — 15 & 16 Vict. c. 36.

had not received baptism at the hands of a priest in holy orders.[1] On his side the dissenter recoiled from the consecrated ground and the offices of the church. Bitterness and discord followed him to the grave, and frowned over his ashes.

In country parishes this painful contact of the church with nonconformity was unavoidable; but in populous towns, dissenters were earnest in providing themselves with separate burial-grounds and unconsecrated parts of cemeteries.[2] And latterly they have further sought for their own ministers the privilege of performing the burial-service in the parish churchyard, with the permission of the incumbent.[3] In Ireland, ministers of all denominations have long had access to the parish burial-grounds.[4] Such a concession was necessary to meet the peculiar relations of the population of that country to the church; but in England, it has not hitherto found favor with the legislature.

Admission of dissenters to the Universities, 1834.

In 1834, another conflict arose between the church and dissenters, when the latter claimed to participate, with churchmen, in the benefits of those great schools of learning and orthodoxy, — the English universities. The position of dissenters was not the same in both universities. At Oxford, subscription to the thirty-nine articles had been required on matriculation, since 1581; and dissenting students had thus been wholly excluded from that university. It was a school set apart for members of the church. Cambridge had been less exclusive. It had admitted nonconformists to its studies, and originally even to its degrees. But since 1616, it had required subscription on

[1] Kemp *v.* Wickes, 1809, Phil., iii. 264; Escott *v.* Masten, 1842; Notes of Eccl. Cases, i. 552; Titchmarsh *v.* Chapman, 1844; *Ibid.*, iii. 370.

[2] Local Cemetery Acts, and 16 & 17 Vict. c. 134, § 7. The Bishop of Carlisle having refused to consecrate a cemetery unless the unconsecrated part was separated by a wall, the legislature interfered to prevent so invidious a separation. — 20 & 21 Vict. c. 81, § 11.

[3] Feb. 19th and April 24th, 1861 (Sir Morton Peto); Hans. Deb., 3d Ser., clxi. 650; clxii. 1051; May 2d, 1862; *Ibid.*, clxvi. 1189.

[4] 5 Geo. IV. c. 25.

proceeding to degrees. Dissenters, while participating in all its studies, were debarred from its honors and endowments, — its scholarships, degrees, and fellowships, — and from any share in the government of the university. From this exclusion resulted a *quasi* civil disability, for which the universities were not responsible. The inns of court admitted graduates to the bar in three years, instead of five; graduates articled to attorneys were admitted to practise after three years; the Colleges of Physicians and Surgeons admitted none but graduates as fellows. The exclusion of dissenters from universities was confined to England. Since 1793, the University of Dublin had been thrown open to Catholics and dissenters,[1] who were admitted to degrees in arts and medicine; and in the universities of Scotland there was no test to exclude dissenters.

Petitions to both Houses.

Several petitions concerning these claims elicited full discussion in both Houses. Of these petitions, the most remarkable was signed by sixty-three members of the senate of the University of Cambridge, distinguished in science and literature, and of eminent position in the university. It prayed that dissenters should be admitted to take the degrees of bachelors, masters, or doctors in arts, law, and physic. Earl Grey, in presenting it to the House of Lords, opened the case of the dissenters in a wise and moderate speech, which was followed by a fair discussion of the conflicting rights of the church and dissenters.[2] In the Commons, Mr. Spring Rice ably represented the case of the dissenters, which was also supported by Mr. Secretary Stanley and Lord Palmerston, on behalf of the Government; and opposed by Mr. Goulburn, Sir R. Inglis, and Sir Robert Peel.[3] Petitions against the claims of dissenters were also discussed, particularly a counter-petition, signed by 259 resident members of the University of Cambridge.[4]

March 21st, 1834.

March 24th.

[1] 33 Geo. III. c. 21 (Irish).

[2] Hans. Deb., 3d Ser., xxii. 497.

[3] *Ibid.*, 570, 623, 674.

[4] *Ibid.*, 1009.

Apart from the discussions to which these petitions gave rise, the case of the dissenters was presented in the more definite shape of a bill, introduced by Mr. George Wood.[1] Against the admission of dissenters, it was argued that the religious education of the universities must either be interfered with, or else imposed upon dissenters. It would introduce religious discord and controversies, violate the statutes of the universities, and clash with the internal discipline of the different colleges. The universities were instituted for the religious teaching of the Church of England; and were corporations enjoying charters and Acts of Parliament, under which they held their authority and privileges, for that purpose. If the dissenters desired a better education for themselves, they were rich and zealous, and could found colleges of their own, to vie with Oxford and Cambridge in learning, piety, and distinction.

Universities' Bill, April 17th, 1834.

On the other hand, it was contended that the admission of dissenters would introduce a better feeling between that body and the church. Their exclusion was irritating and invidious. The religious education of the universities was one of learning rather than orthodoxy; and it was more probable that dissenters would become attracted to the church, than that the influence of the church and its teachings would be impaired by their presence in the universities. The experience of Cambridge proved that discipline was not interfered with by their admission to its studies; and the denial of degrees to students who had distinguished themselves was a galling disqualification, upon which churchmen ought not to insist. The example of Dublin University was also relied on, whose Protestant character had not been affected, nor its discipline interfered with, by the admission of Roman Catholics. This bill being warmly espoused by the entire liberal party, was passed by the Commons, with

June 20th.

July 28th.

[1] Hans. Deb., 3d Ser., xxii. 900. Ayes, 185; Noes, 44. Colonel Williams having moved for an address, the bill was ordered as an amendment to that question.

large majorities.[1] In the Lords, however, it was received with marked disfavor. It was strenuously opposed by the Archbishop of Canterbury, the Duke of Gloucester, the Duke of Wellington, and the Bishop of Exeter; and even the new premier, Lord Melbourne, who supported the second reading, avowed that he did not entirely approve of the measure. In his opinion its objects might be better effected by a good understanding and a compromise between both parties, than by the force of an Act of Parliament. The bill was refused a second reading by a majority of one hundred and two.[2]

Aug. 1st.

Not long afterwards, however, the just claims of dissenters to academical distinction were met, without trenching upon the church or the ancient seats of learning, by the foundation of the University of London, — open to students of every creed.[3] Some years later, the education, discipline, and endowments of the older universities called for the interposition of Parliament; and in considering their future regulation, the claims of dissenters were not overlooked. Provision was made for the opening of halls, for their collegiate residence and discipline; and the degrees of the universities were no longer withheld from their honorable ambition.[4]

London University established, 1836.

Oxford and Cambridge Universities' Acts.

The contentions hitherto related have been between the church and dissenters. But rival sects have had their contests; and in 1844 the legislature interposed to protect the endowments of dissenting communions from being despoiled by one another. Decisions of the Court of Chancery and the House of Lords, in the

Dissenters' Chapels Bill, 1844.

[1] On second reading — Ayes, 321; Noes, 147. On third reading — Ayes 164; Noes, 75. Hans. Deb., 3d Ser., xxiii. 632, 635.

[2] Contents, 85; Non-contents, 187. Hans. Deb., 3d Ser., xxv. 815.

[3] Debates, March 26th, 1835; Hans. Deb., 3d Ser., xxvii. 279; London University Charters, Nov. 1836, and Dec. 1837.

[4] Oxford University Act, 17 & 18 Vict. c. 81, s. 43, 44, &c.; Cambridge University Act, 19 & 20 Vict. c. 88, s. 45, &c. These degrees, however, did not entitle them to offices hitherto held by churchmen.

case of Lady Hewley's charity, had disturbed the security of all property held in trust by nonconformists, for religious purposes. The faith of the founder, — not expressly defined by any will or deed, but otherwise collected from evidence, — was held to be binding upon succeeding generations of dissenters. A change or development of creed forfeited the endowment; and what one sect forfeited, another might claim. A wide field was here opened for litigation. Lady Hewley's trustees had been dispossessed of their property, after a ruinous contest of fourteen years. In the obscure annals of dissent, it was difficult to trace out the doctrinal variations of a religious foundation; and few trustees felt themselves secure against the claims of rivals, encouraged at once by the love of gain and by religious hostility. An unfriendly legislature might have looked with complacency upon endowments wasted and rivalries embittered. Dissent might have been put into chancery, without a helping hand. But Sir Robert Peel's enlightened chancellor, Lord Lyndhurst, came forward to stay further strife. His measure provided that where the founder had not expressly defined the doctrines or form of worship to be observed, the usage of twenty-five years should give trustees a title to their endowment;[1] and this solution of a painful difficulty was accepted by Parliament. It was not passed without strong opposition on religious grounds, and fierce jealousy of Unitarians, whose endowments had been most endangered; but it was, in truth, a judicious legal reform rather than a measure affecting religious liberty.[2]

In the same spirit, Parliament has lately empowered the trustees of endowed schools to admit children of different religious denominations, unless the deed of foundation expressly limited the benefits of the endowment to the church, or some other religious communion.[3] Endowed Schools Act, 1860.

[1] Hans. Deb., 3d Ser., lxxiv. 579, 821.
[2] *Ibid.*, lxxv. 321, 383; lxxvi. 116; 7 & 8 Vict. c. 45
[3] 23 Vict. c. 11.

Repeal of penalties on religious worship.

Long after Parliament had frankly recognized complete freedom of religious worship, many intolerant enactments still bore witness to the rigor of our laws. Liberty had been conceded so grudgingly, and clogged with so many conditions, that the penal code had not yet disappeared from the statute-book. In 1845, the Criminal Law Commission enumerated the restraints and penalties which had hitherto escaped the vigilance of the legislature.[1] And Parliament has since blotted out many repulsive laws affecting the religious worship and education of Roman Catholics, and others not in communion with the church.[2]

Church rates.

The church honorably acquiesced in those just and necessary measures, which secured to dissenters liberty in their religious worship and ministrations, and exemption from civil disabilities. But a more serious contention had arisen affecting her own legal rights, her position as the national establishment, and her ancient endowments. Dissenters refused payment of church-rates. Many suffered imprisonment or distraint of their goods, rather than satisfy the lawful demands of the church.[3] Others, more practical and sagacious, attended vestries, and resisted the imposition of the annual rate upon the parishioners. And during the progress of these local contentions, Parliament was appealed to by dissenters for legislative relief.

Principles involved.

The principles involved in the question of church-rate, while differing in several material points from those concerned in other controversies between the church and dissenters, may yet be referred to one common

[1] First Report of Crim. Law Commission (Religious Opinions), 1845.

[2] 7 & 8 Vict. c. 102; Hans. Deb., 3d Ser., lxxiv. 691; lxxvi. 1165; 9 & 10 Vict. c. 59; *Ibid.*, lxxxiii. 495. Among the laws repealed by this Act was the celebrated statute or ordinance of Henry III., "pro expulsione Judæorum."

[3] See Debates, July 30th, 1839; July 24th, 1840 (Thorogood's case); Hans. Deb., 3d Ser., xlix. 998; lv. 939. Appendix to Report of Committee on Church Rates, 1851, p. 606–645.

origin, — the legal recognition of a national church, with all the rights incident to such an establishment, in presence of a powerful body of nonconformists. By the common law, the parishioners were bound to maintain the fabric of the parish church, and provide for the decent celebration of its services. The edifice consecrated to public worship was sustained by an annual rate, voted by the parishioners themselves assembled in vestry, and levied upon all occupiers of land and houses within the parish, according to their ability.[1] For centuries, the parishioners who paid this rate were members of the church. They gazed with reverence on the antique tower; hastened to prayers at the summons of the sabbath-bells; sat beneath the roof which their contributions had repaired; and partook of the sacramental bread and wine which their liberality had provided. The rate was administered by lay churchwardens of their own choice; and all cheerfully paid what was dispensed for the common use and benefit of all. But times had changed. Dissent had grown, and spread and ramified throughout the land. In some parishes, dissenters even outnumbered the members of the church. Supporting their own ministers, building and repairing their own chapels, and shunning the services and clergy of the parish church, they resented the payment of the church-rate as at once an onerous and unjust tax and an offence to their consciences. They insisted that the burden should be borne exclusively by members of the church. Such, they contended, had been the original design of church-rate; and this principle should again be recognized, under altered conditions, by the state. The church stood firmly upon her legal rights. The law had never acknowledged such a distinction of persons as that contended for by dissenters; nay, the tax was chargeable, not so much upon persons, as upon property; and having existed for centuries, its

[1] Lyndwood, 53; Wilkins's Concil., i. 253; Coke's 2d Inst., 489, 653; 13 Edw. I. (statute, *Circumspecte agatis*); Sir J. Campbell's Letter to Lord Stanley, 1837; Report of Commission on Eccl. Courts, 1832.

amount was, in truth, a deduction from rent. If dissenting tenants were relieved from its payment, their landlords would immediately claim its equivalent in rental. But, above all, it was maintained that the fabric of the church was national property, — an edifice set apart by law for public worship according to the religion of the state, open to all, inviting all to its services, and as much the common property of all, as a public museum or picture-gallery, which many might not care to enter, or were unable to appreciate.

Such being the irreconcilable principles upon which each party took its stand, contentions of increasing bitterness became rife in many parishes, — painful to churchmen, irritating to dissenters, and a reproach to religion. In 1834, Earl Grey's ministry, among its endeavors to reconcile, as far as possible, all differences between the church and dissenters, attempted a solution of this perplexing question. Their scheme, as explained by Lord Althorp, was to substitute for the existing church-rate an annual grant of 250,000*l.* from the consolidated fund, for the repair of churches. This sum, equal to about half the estimated rate, was to be distributed ratably to the several parishes. Church-rate, in short, was to become national instead of parochial. This expedient found no favor with dissenters, who would still be liable to pay for the support of the church, in another form. Nor was it acceptable to churchmen, who deemed a fixed parliamentary subsidy, of reduced amount, a poor equivalent for their existing rights. The bill was, therefore, abandoned, having merely served to exemplify the intractable difficulties of any legislative remedy.[1]

Lord Althorp's scheme of commutation, April 21st, 1834.

In 1837, Lord Melbourne's government approached this embarrassing question with no better success. Their scheme provided a fund for the repair of churches out of surplus revenues, to arise from an improved administration of church lands.[2] This

Mr. Spring Rice's scheme for settling church-rates, March 3d, 1837.

[1] Hans. Deb., 3d Ser., xx. 1012; Comm. Journ., lxxxix. 203, 207.

[2] Hans. Deb., 3d Ser., xxxvi. 1207; xxxviii. 1073.

measure might well satisfy dissenters: but was wholly repudiated by the church.[1] It abandoned church-rates, to which she was entitled; and appropriated her own revenues to purposes otherwise provided for by law. She enjoyed both sources of income, and it was simply proposed to deprive her of one. If her revenues could be improved, she was herself entitled to the benefit of that improvement, for other spiritual objects. If church-rates were to be surrendered, she claimed from the state another fund, as a reasonable equivalent.

The first Braintree case.

But the legal rights of the church, and the means of enforcing them, were about to be severely contested by a long course of litigation. In 1837, a majority of the vestry of Braintree having postponed a church-rate for twelve months, the churchwardens took upon themselves, of their own authority, and in defiance of the vestry, to levy a rate. In this strange proceeding they were supported, for a time, by the Consistory Court,[2] on the authority of an obscure precedent.[3] But the Court of Queen's Bench restrained them, by prohibition, from collecting a rate, which Lord Denman emphatically declared to be "altogether invalid, and a church-rate in nothing but the name."[4] In this opinion the Court of Exchequer Chamber concurred.[5] Chief Justice Tindal, however, in giving the judgment of this court, suggested a doubt whether the churchwardens, and a minority of the vestry together, might not concur in granting a rate, at the meeting of the parishioners assembled for that purpose. This suggestion was founded on the principle that the votes of the majority, who refused to perform their duty, were lost and thrown

1 Ann. Reg., 1837, p. 85.

2 Veley *v.* Burder, Nov. 15th, 1837; App. to Report of Church Rates Co., 1851, p. 601.

3 Gaudern *v.* Selby in the Court of Arches, 1799.

4 Lord Denman's Judgment, May 1st, 1840; Burder *v.* Veley; Adolph. and Ellis, xii. 244.

5 Feb. 8th, 1841; *Ibid.*, 300.

away; while the minority, in the performance of the prescribed duty of the meeting, represented the whole number.

The second Braintree case, 1841–1853.

This subtle and technical device was promptly tried at Braintree. A rate being again refused by the majority, a monition was obtained from the Consistory Court, commanding the churchwardens and parishioners to make a rate according to law.[1] In obedience to this monition, another meeting was assembled; and a rate being again refused by the majority, it was immediately voted in their presence by the churchwardens and minority.[2] A rate so imposed was of course resisted. The Consistory Court pronounced it illegal: the Court of Arches adjudged it valid. The Court of Queen's Bench, which had scouted the authority of the churchwardens, respected the right of the minority, — scarcely less equivocal, — to bind the whole parish; and refused to stay the collection of the rate, by prohibition. The Court of Exchequer Chamber affirmed this decision. But the House of Lords, — superior to the subtleties by which the broad principles of the law had been set aside, — asserted the unquestionable rights of a majority. The Braintree rate which the vestry had refused, and a small minority had assumed to levy, was pronounced invalid.[3]

Its effect upon the rights of the church.

This construction of the law gravely affected the relations of the church to dissenters. From this time, church-rates could not practically be raised in any parish, in which a majority of the vestry refused to impose them. The church, having an abstract legal title to receive them, was powerless to enforce it. The legal obligation to repair the parish church continued; but church-rates assumed the form of a voluntary contribution, rather than a compulsory tax. It was vain to threaten parishioners with the censures of ecclesiastical courts, and a whole parish

[1] June 22d, 1841.

[2] July 15th, 1841.

[3] Jurist, xvii. 939. Clark's House of Lords' Cases, iv. 679–814.

with excommunication.[1] Such processes were out of date. Even if vestries had lost their rights by any forced construction of the law, no rate could have been collected against the general sense of the parishioners. The example of Braintree was quickly followed. Wherever the dissenting body was powerful, canvassing and agitation were actively conducted, until, in 1859, church-rates had been refused in no less than 1525 parishes or districts.[2] This was a serious inroad upon the rights of the church.

Bills for the abolition of church-rates

While dissenters were thus active and successful in their local resistance to church-rates, they were no less strenuous in their appeals to Parliament for legislative relief. Government having vainly sought the means of adjusting the question, in any form consistent with the interests of the church, the dissenters organized an extensive agitation for the total repeal of church-rates. Proposals for exempting dissenters from payment were repudiated by both parties.[3] Such a compromise was regarded by churchmen as an encouragement to dissent, and by nonconformists as derogatory to their rights and pretensions as independent religious bodies. The first bill for the abolition of church-rates was introduced in 1841 by Sir John Easthope, but was disposed of without a division.[4] For several years similar proposals were submitted to the Commons without success.[5] In 1855, and again in 1856, bills for this purpose were read a second time by the Commons,[6] but pro-

[1] Church Rates Committee, 1851; Dr. Lushington's Ev., Q. 2358–2365; Courtald's Ev., Q. 489–491; Pritchard's Ev., Q. 660, 661; Terrell's Ev., Q. 1975–1982; Dr. Lushington's Ev. before Lords' Committee, 1859.

[2] Parl. Return, Sess. 2, 1859, No. 7.

[3] On Feb. 11th, 1840, a motion by Mr. T. Duncombe to this effect was negatived by a large majority. Ayes, 62; Noes, 117. — *Comm. Journ.*, xcv. 74. Again, on March 13th, 1849, an amendment to the same purpose found only twenty supporters. In 1852 a bill to relieve dissenters from the rate, brought in by Mr. Packe, was withdrawn.

[4] May 26th, 1841; Comm. Journ., xcvi. 345, 414.

[5] June 16th, 1842; Comm. Journ., xcvii. 385; March 13th, 1849; *Ibid.*, civ. 134; May 26th, 1853; *Ibid.*, cviii. 516.

[6] May 16th, 1855; Ayes, 217; Noes, 189. Feb. 8th, 1856; Ayes, 221; Noes, 178.

ceeded no further. In the latter year Sir George Grey, on behalf of ministers, suggested as a compromise between the contending parties, that where church-rates had been discontinued in any parish for a certain period, — sufficient to indicate the settled purpose of the inhabitants, — the parish should be exempted from further liability.[1] This suggestion, however, founded upon the anomalies of the existing law was not submitted to the decision of Parliament. The controversy continued; and at length, in 1858, a measure brought in by Sir John Trelawny, for the total abolition of church-rates, was passed by the Commons, and rejected by the Lords.[2] In 1859, another compromise was suggested, when Mr. Secretary Walpole brought in a bill to facilitate a voluntary provision for church-rates: but it was refused a second reading by a large majority.[3] In 1860, another abolition bill was passed by one House and rejected by the other.[4]

Reaction in favor of the church.

Other compromises were suggested by friends of the church:[5] but none found favor, and total abolition was still insisted upon by a majority of the Commons. With ministers it was an open question; and between members and their constituents, a source of constant embarrassment. Meanwhile, an active counter-agitation, on behalf of the church, began to exercise an influence over the divisions; and from 1858 the ascendency of the anti-church-rate party sensibly declined.[6] Such a reaction was obviously favorable to the final adjustment of the claims of dissenters, on terms more equitable to the church;

[1] March 5th, 1856; Hans. Deb., 3d Ser., cxl. 1900.

[2] The third reading of this bill was passed on June 8th by a majority of 63: Ayes, 266; Noes, 203. — Comm. Journ., cxiii. 216.

[3] March 9th, 1859. Ayes, 171; Noes, 254. — Comm. Journ., cxiv 66.

[4] The third reading of this bill was passed by a majority of nine only Ayes, 235; Noes, 226. — Comm. Journ., cv. 208.

[5] Viz. The Archbishop of Canterbury, Mr. Alcock, Mr. Cross, Mr. Newdegate, and Mr. Hubbard.

[6] In 1861 (beyond the limits of this history) the annual bill was lost on the third reading by the casting vote of the Speaker; and in 1862 by a majority of 17.

but as yet the conditions of such an adjustment have baffled the sagacity of statesmen.

While these various contentions were raging between the church and other religious bodies, important changes were in progress in the church and in the religious condition of the people. The church was growing in spiritual influence and temporal resources. Dissent was making advances still more remarkable.

State of the church to the end of last century

For many years after the accession of George III. the church continued her even course, with little change of condition or circumstances.[1] She was enjoying a tranquil, and apparently prosperous, existence. Favored by the state and society; threatened by no visible dangers; dominant over Catholics and dissenters; and fearing no assaults upon her power or privileges, she was contented with the dignified security of a national establishment. The more learned churchmen devoted themselves to classical erudition and scholastic theology: the parochial clergy to an easy but decorous performance of their accustomed duties. The discipline of the church was facile and indulgent. Pluralities and nonresidence were freely permitted, the ease of the clergy being more regarded than the spiritual welfare of the people. The parson farmed, hunted, shot the squire's partridges, drank his port-wine, joined in the friendly rubber, and frankly entered into all the enjoyments of a country-life He was a kind and hearty man; and if he had the means, his charity was open-handed. Ready at the call of those who sought religious consolation, he was not earnest in searching out the spiritual needs of his flock. Zeal was not expected of him: society was not yet prepared to exact it.

While ease and inaction characterized the church, a great change was coming over the religious and social condition of the people. The religious movement, commenced by Wesley and Whitefield,[2] was spreading widely among the middle and humbler classes An age of spiritual lethargy was passing away; and a period

Changes in the condition of the people.

[1] *Supra*, 310.

[2] *Supra*, p. 311.

of religious emotion, zeal, and activity commencing. At the same time, the population of the country was attaining an extraordinary and unprecedented development. The church was ill prepared to meet these new conditions of society. Her clergy were slow to perceive them; and when pressed by the exigencies of the time, they could not suddenly assume the character of missionaries. It was a new calling, for which their training and habits unfitted them; and they had to cope with unexampled difficulties. A new society was growing up around them, with startling suddenness. A country-village often rose, as if by magic, into a populous town: a town was swollen into a huge city. Artisans from the loom, the forge, and the mine were peopling the lone valley and the moor. How was the church at once to embrace a populous and strange community in her ministrations? The parish church would not hold them, if they were willing to come: the parochial clergy were unequal, in number and in means, to visit them in their own homes. Spoliation and neglect had doomed a large proportion of the clergy to poverty; and neither the state nor society had yet come to their aid. If there were shortcomings on their part, they were shared by the state and the laity. There was no organization to meet the pressure of local wants, while population was outgrowing the ordinary agencies of the church. The field which was becoming too wide for her, was entered upon by dissent; and hitherto it has proved too wide for both.[1]

Sudden growth of population.

In dealing with rude and industrial populations, the clergy labored under many disadvantages compared with other sects, — particularly the Methodists, — by whom they were environed. However earnest in

Causes adverse to the clergy in presence of dissent.

[1] It is computed that on the census Sunday, 1851, 5,288,294 persons able to attend religious worship once at least, were wholly absent. And it has been reckoned that in Southwark 68 per cent. of the population attend no place of worship whatever; in Sheffield, 62; in Oldham, 61½. In thirty-four great towns, embracing a population of 3,993,467, no less than 2,197,388, or 52½ per cent, are said to attend no places of worship. — *Dr Hume's Ev. before Lords Co. on Church Rates*, 1859, Q. 1290–1300.

their calling, they were too much above workingmen in rank and education, to gain their easy confidence. They were gentlemen, generally allied to county families, trained at the universities, and mingling in refined society. They read the services of the church with grave propriety, and preached scholarlike discourses without emphasis or passion. Their well-bred calmness and good taste ministered little to religious excitement. But hard by the village-church, a Methodist carpenter or blacksmith would address his humble flock with passionate devotion. He was one of themselves, spoke their rough dialect, used their wonted phrases; and having been himself converted to Methodism, described his own experience and consolations. Who can wonder that numbers forsook the decorous monotony of the church-service for the fervid prayers and moving exhortations of the Methodist? Among the more enlightened population of towns, the clergy had formidable rivals in a higher class of nonconformist ministers, who attracted congregations, not only by doctrines congenial to their faith and sentiments, but by a more impassioned eloquence, greater warmth and earnestness, a plainer language, and closer relations with their flocks. Again, in the visitation of the sick, dissent had greater resources than the church. Its ministers were more familiar with their habits and religious feelings; were admitted with greater freedom to their homes; and were assisted by an active lay agency, which the church was slow to imitate.

Social causes further contributed to the progress of dissent. Many were not unwilling to escape from the presence of their superiors in station. Farmers and shopkeepers were greater men in the meeting-house, than under the shadow of the pulpit and the squire's pew. Workingmen were glad to be free, for one day in the week, from the eye of the master. It was a comfort to be conscious of independence, and to enjoy their devotions, — like their sports, — among themselves, without restraint or embarrassment. Even their homely dress tempted them from the

Social causes of dissent.

church; as rags shut out a lower grade from public worship altogether.

Dissent in Wales.

In Wales, there was yet another inducement to dissent. Like the Irish at the Reformation, the people were ignorant of the language in which the services of the church were too often performed. In many parishes, the English liturgy was read and English sermons preached to Welshmen. Even religious consolations were ministered with difficulty, in the only language familiar to the people. Addressed by nonconformist teachers in their own tongue, numbers were soon won over. Doctrines and ceremonies were as nothing compared with an intelligible devotion. They followed Welshmen, rather than dissenters: but found themselves out of communion with the church.

The church retained English society.

From these combined causes, — religious and social, — dissent marched onwards. The church lost numbers from her fold; and failed to embrace multitudes among the growing population, beyond her ministrations. But she was never forsaken by the rank, wealth, intellect, and influence of the country; and the poor remained her uncontested heritage. Nobles, and proprietors of the soil, were her zealous disciples and champions; the professions, the first merchants and employers of labor, continued faithful. English society held fast to her. Aspirants to respectability frequented her services. The less opulent of the middle classes, and the industrial population, thronged the meeting-house; men who grew rich and prosperous forsook it for the church.

Regeneration of the church.

It was not until early in the present century, that the rulers and clergy of the church were awakened to a sense of their responsibilities, under these new conditions of society and religious feeling. Startled by the outburst of infidelity in France, and disquieted by the encroachments of dissent, — they at length discovered that the church had a new mission before her. More zeal was needed in her ministers: better discipline and organization in her government:

new resources in her establishment. The means she had must be developed; and the coöperation of the state and laity must be invoked, to combat the difficulties by which she was surrounded. The church of the sixteenth century must be adapted to the population and needs of the nineteenth.

The first efforts made for the regeneration of the church were not very vigorous, but they were in the right direction. In 1803, measures were passed to restrain clerical farming, to enforce the residence of incumbents, and to encourage the building of churches.[1]

Church Building Act, 1818.

Fifteen years later, a comprehensive scheme was devised for the building and endowment of churches in populous places. The disproportion between the means of the church and the growing population was becoming more and more evident;[2] and in 1818 provision was made by Parliament for a systematic extension of church accommodation. Relying mainly upon local liberality, Parliament added contributions from the public revenue, in aid of the building and endowment of additional churches.[3] Further encouragement was also given by the remission of duties upon building materials.[4]

Church extension, England.

The work of church extension was undertaken with exemplary zeal. The piety of our ancestors, who had raised churches in every village throughout the land, was emulated by the laity, in the present century, who provided for the spiritual needs of their own time. New churches arose everywhere among a growing

[1] 43 Geo. III. c. 84, 108; and see Stephen's Ecclesiastical Statutes, 892, 985.

[2] Lord Sidmouth's Life, iii. 138; Returns laid before the House of Lords, 1811.

[3] 58 Geo. III. c. 45; 3 Geo. IV. c. 72, &c. One million was voted in 1813, and 500,000*l.* in 1824. Exchequer bill loans to about the same amount were also made. — *Porter's Progress*, 619.

[4] In 1837 these remissions had amounted to 170,561*l.*; and from 1837 to 1845, to 165,778*l.* — Parl. Papers, 1838, No. 325; 1845, No. 322.

and prosperous population; parishes were divided; and endowments found for thousands of additional clergy.[1]

Other endowments of the church.

The poorer clergy have also received much welcome assistance from augmentations of the fund known as Queen Anne's bounty.[2] Nor is it unworthy of remark, that the general opulence of the country has contributed, in another form, to the poorer benefices. Large numbers of clergy have added their private resources to the scant endowments of their cures; and with a noble spirit of devotion and self-sacrifice, have dedicated their lives and fortunes to the service of the church.

Ecclesiastical revenues.

While the exertions of the church were thus encouraged by public and private liberality, the legislature was devising means for developing the existing resources of the establishment. Its revenues were large, but ill administered and unequally distributed. Notwithstanding the spoliations of the sixteenth century, the net revenues amounted to 3,490,497*l.*; of which 435,046*l.* was appropriated by the bishops and other dignitaries; while many incumbents derived a scanty pittance from the ample patrimony of the church.[3] Sound policy, and the interests of the church herself, demanded an improved management and distribution of this great income; and

Ecclesiastical commission, 1836.

[1] Between 1801 and 1831 about five hundred churches were built at an expense of 3,000,000*l.* In twenty years, from 1831 to 1851, more than two thousand new churches were erected at an expense exceeding 6,000,000*l.* In this whole period of fifty years, 2,529 churches were built at an expense of 9,087,000*l.*, of which 1,663,429*l.* were contributed from public funds, and 7,423,571*l.* from private benefactions. — Census, 1851, Religious Worship, p. xxxix.; see also Lords' Debate, May 11th, 1854. — Hans. Deb., 3d Ser., cxxxiii. 153. Between 1801 and 1858, it appears that 3150 churches had been built at an expense of 11,000,000*l.* — Lords' Report on Spiritual Destitution, 1858; Cotton's Ev., Q. 141.

[2] 2 & 3 Anne, c. 11; 1 Geo. I. st. 2, c. 10; 45 Geo. III. c. 84; 1 & 2 Will. IV. c. 45, &c. From 1809 to 1820, the governors of Queen Anne's bounty distributed no less than 1,000,000*l.* to the poorer clergy. From April 5th, 1831, to Dec. 31st, 1835, they disbursed 687,342*l.* From 1850 to 1860 inclusive, they distributed 2,502,747*l.*

[3] Report on Ecclesiastical Duties and Revenues Comm., 1831.

in 1835 a commission was constituted, which, in five successive reports, recommended numerous ecclesiastical reforms. In 1836, the ecclesiastical commissioners were incorporated,[1] with power to prepare schemes for carrying these recommendations into effect. Many reforms in the church establishment were afterwards sanctioned by Parliament. The boundaries of the several dioceses were revised: the sees of Gloucester, Bristol, Bangor, and St. Asaph were consolidated into two, and the new sees of Manchester and Ripon created: the episcopal revenues and patronage were readjusted.[2] The establishments of cathedral and collegiate churches were reduced, and their revenues appropriated to the relief of spiritual destitution. And the surplus revenues of the church, accruing from all these reforms, have since been applied, under the authority of the commissioners, to the augmentation of small livings, and other purposes designed to increase the efficiency of the church.[3] At the same time pluralities were more effectually restrained, and residence enforced, among the clergy.[4]

In extending her ministrations to a growing community, the church has further been assisted from other sources. Several charitable societies have largely contributed to this good work,[5] and private munificence —

Private munificence.

[1] 6 & 7 Will. IV. c. 77. The constitution of the commissioners was altered in 1840 by 3 & 4 Vict. c. 113; 14 & 15 Vict. c. 104; 23 & 24 Vict. c. 124.

[2] See 6 & 7 Will. IV. c. 77; 3 & 4 Vict. c. 113.

[3] In 1860, no less than 1388 benefices and districts had been augmented and endowed, out of the common fund of the commissioners, to the extent of 98,900*l.* a year; to which had been added land and tithe rent-charge amounting to 9600*l.* a year. — 14th Report of Commissioners, p. 5.

[4] 1 & 2 Vict. c. 106.

[5] In twenty-five years the Church Pastoral Aid Society raised and expended 715,624*l.*, by which 1015 parishes were aided. In twenty-four years the Additional Curates Society raised and expended 531,110*l.* In thirty-three years the Church Building Society expended 680,233*l.*, which was met by a further expenditure, on the part of the public, of 4,451,405*l.* — *Reports of these Societies for* 1861.

Independently of diocesan and other local societies, the aggregate funds

in an age not less remarkable for its pious charity than for its opulence — has nobly supported the zeal and devotion of the clergy.

Tithes commutation, England.

The principal revenues of the church, however, were derived from tithes; and these continued to be collected by the clergy, according to ancient usage, "in kind." The parson was entitled to the farmer's tenth wheat-sheaf, his tenth pig, and his tenth sack of potatoes! This primitive custom of the Jews was wholly unsuited to a civilized age. It was vexatious to the farmer, discouraging to agriculture, and invidious to the clergy. A large proportion of the land was tithe-free: and tithes were often the property of lay impropriators: yet the church sustained all the odium of an antiquated and anomalous law. The evil had long been acknowledged. Prior to the Acts of Elizabeth restraining alienations of church property,[1] landowners had purchased exemption from tithes by the transfer of lands to the church; and in many parishes a particular custom prevailed, known as a *modus*, by which payment of tithes in kind had been commuted. The Long Parliament had designed a more general commutation.[2] Adam Smith and Paley had pointed out the injurious operation of tithes; and the latter had recommended their conversion into corn-rents.[3] This suggestion having been carried out in some local enclosure bills, Mr. Pitt submitted to the Archbishop of Canterbury, in 1791, the propriety of its general adoption: but unfortunately for the interests of the church, his wise counsels were not accepted.[4] It was not for more than forty years afterwards, that Parliament perceived the necessity of a general measure of commutation. In 1833

f religious societies connected with the church amounted, in 1851, to upwards of 400,000*l.* a year, of which 250,000*l.* was applied to foreign missions. — Census of 1851, Religious Worship, p. xli.

[1] 1 Eliz. c. 19; 13 Eliz. c. 10.

[2] Collier's Eccl. Hist., ii. 861.

[3] Moral and Political Philosophy, ch. xii.

[4] Lord Stanhope's Life of Pitt, ii 131.

and 1834, Lord Althorp submitted imperfect schemes for consideration;[1] and in 1835 Sir Robert Peel proposed a measure to facilitate voluntary commutation, which was obviously inadequate.[2] But in 1836 a measure, more comprehensive, was framed by Lord Melbourne's government, and accepted by Parliament. It provided for the general commutation of tithes into a rent-charge upon the land, payable in money, but varying according to the average price of corn for seven preceding years. Voluntary agreements upon this principle were first encouraged; and where none were made, a compulsory commutation was effected by commissioners appointed for that purpose.[3] The success of this statesmanlike measure was complete. In fifteen years, the entire commutation of tithes was accomplished in nearly every parish in England and Wales.[4] To no measure, since the Reformation, has the church owed so much peace and security. All disputes between the clergy and their parishioners, in relation to tithes, were averted; while their rights, identified with those of the lay impropriators, were secured immutably upon the land itself.

Throughout the progress of these various measures the church has been gaining strength and influence by her own spiritual renovation. While the judicious policy of the legislature has relieved her from many causes of jealousy and ill-will, and added to her temporal resources, she has displayed a zeal and activity worthy of her high calling and destinies. Her clergy, — earnest, intellectual, and accomplished, — have kept pace with the ad-

Continued zeal of the church.

[1] April 18th, 1833; April 15th, 1834; Hans. Deb., 3d Ser., xvii. 281; xxii. 834.

[2] March 24th, 1835; *Ibid.*, xxvii. 183.

[3] Feb. 9th, 1836. Hans. Deb., 3d Ser., xxxi. 185; 6 & 7 Will. IV. c. 71; 7 Will. IV. and 1 Vict. c. 69; 1 & 2 Vict. c. 64; 2 & 3 Vict. c. 32; 5 & 6 Vict. c. 54; 9 & 10 Vict. c. 73; 10 & 11 Vict. c. 104; 14 & 15 Vict. c. 53.

[4] In Feb. 1851, the commissioners reported that "the great work of commutation is substantially achieved." — 1851, No. [1325]. In 1852, they speak of formal difficulties in about one hundred cases. — 1852, No. [1447].

vancing enlightenment of their age. They have labored, with all their means and influence, in the education of the people; and have joined heartily with laymen in promoting, by secular agencies, the cultivation and moral welfare of society. At one time there seemed danger of further schisms, springing from controversies which had been fruitful of evil at the Reformation. The high church party leaning, as of old, to the imposing ceremonial of Catholic worship, aroused the apprehensions of those who perceived in every symbol of the Romish church a revival of her errors and superstitions. But the extravagance of some of the clergy was happily tempered by the moderation of others, and by the general good sense and judgment of the laity; and schism was averted. Another schism, arising out of the Gorham controversy, was threatened by members of the evangelical, or low church party; but was no less happily averted. The fold of the church has been found wide enough to embrace many diversities of doctrine and ceremony. The convictions, doubts, and predilections of the sixteenth century still prevail, with many of later growth; but enlightened churchmen, without absolute identity of opinion, have been proud to acknowledge the same religious communion, — just as citizens, divided into political parties, are yet loyal and patriotic members of one state. And if the founders of the reformed church erred in prescribing too strait an uniformity, the wisest of her rulers, in an age of active thought and free discussion, have generally shown a tolerant and cautious spirit in dealing with theological controversies. The ecclesiastical courts have also striven to give breadth to her articles and liturgy. Never was comprehension more politic. The time has come, when any serious schism might bring ruin on the church.

Progress of dissent.

Such having been the progress of the church, what have been the advances of dissent? We have seen how wide a field lay open to the labors of pious men. A struggle had to be maintained between religion and

heathenism in a Christian land; and in this struggle dissenters long bore the foremost part. They were at once preachers and missionaries. Their work prospered, and in combating ignorance and sin, they grew into formidable rivals of the church. The old schisms of the Reformation had never lost their vitality. There had been prosecution enough to alienate and provoke nonconformists: but not enough to repress them. And when they started on a new career in the last century, they enjoyed toleration. The doctrines for which many had formerly suffered were now freely preached, and found crowds of new disciples. At the same time, freedom of worship and discussion favored the growth of other diversities of faith, ceremonial, and discipline.

The later history of dissent, of its rapid growth and development, its marvellous activity and resources, is to be read in its statistics. The church in extending her ministrations had been aided by the state, and by the liberality of her wealthy flocks. Dissent received no succor or encouragement from the state; and its disciples were generally drawn from the less opulent classes of society. Yet what has it done for the religious instruction of the people? In 1801, the Wesleyans had 825 chapels or places of worship: in 1851, they had the extraordinary number of 11,007, with sittings for 2,194,298 persons! The original connection alone numbered 1034 ministers, and upwards of 13,000 lay or local preachers. In 1801, the Independents had 914 chapels: in 1851, they had 3244, with sittings for 1,067,760 members. In 1801, the Baptists had 652 places of worship: in 1851, they had 2789, with sittings for 752,346. And numerous other religious denominations swelled the ranks of Protestant dissent. Statistics of dissent.

The Roman Catholics,— forming a comparatively small body, — have yet increased of late years in numbers and activity. Their chapels grew from 346 in 1824, to 574 in 1851, with accommodation for 186,111 persons. Between 1841 and 1853 their religious houses were multiplied from

17 to 88; and their priests from 557 to 875. Their flocks have naturally been enlarged by considerable numbers of Irish and foreigners who have settled, with their increasing families, in the metropolis and other large towns.

Statistics of places of worship.

For the population of England and Wales, amounting in 1851 to 17,927,609, there were 34,467 places of worship, of which 14,077 belonged to the church of England. Accommodation was provided for 9,467,738 persons, of whom 4,922,412 were in the establishment. On the 30th of March, 4,428,338 attended morning service, of whom 2,371,732 were members of the church.[1] Hence it has been computed that there were 7,546,948 members of the establishment habitually attending religious worship; and 4,466,266 nominal members rarely, if ever, attending the services of their church. These two classes united, formed about 67 per cent. of the population. The same computation reckoned 2,264,324 Wesleyans, and 610,786 Roman Catholics.[2] The clergy of the established church numbered 17,320: ministers of other communions, 6405.[3]

Relations of the church to dissent.

So vast an increase of dissent has seriously compromised the position of the church as a national establishment. Nearly one third of the present generation have grown up out of her communion. But her power is yet dominant. She holds her proud position in the state and society: she commands the parochial organization of the country: she has the largest share in the education of the people;[4] and she has long been straining every nerve to

[1] Census of Great Britain, 1851, Religious Worship. The progressive increase of dissent is curiously illustrated by a return of temporary and permanent places of worship registered in decennial periods. — Parl. Paper, 1853, No. 156.

[2] Dr. Hume's Ev. before Lords' Co. on Church Rates, 1859, Q. 1291, and map. Independents and Baptists together are set down as 9¾ per cent. and other sects 6¾ on the population.

[3] Census 1851: occupations, table 27.

[4] In 1860 she received about 77 per cent. of the education grant from the Privy Council; and of 1,549,312 pupils in day-schools, she had no less than 1,187,086; while of Sunday-school pupils dissenters had a majority of

extend her influence. The traditions and sentiment of the nation are on her side. And while she comprises a united body of faithful members, dissenters are divided into upwards of one hundred different sects, or congregations, without sympathy or cohesion, and differing in doctrines, polity and forms of worship. Sects, not bound by subscription to any articles of faith, have been rent asunder by schisms. The Wesleyans have been broken up into nine divisions:[1] the Baptists into five.[2] These discordant elements of dissent have often been united in opposition to the church, for the redress of grievances common to them all. But every act of toleration and justice, on the part of the state, has tended to dissolve the combination. The odium of bad laws weighed heavily upon the church; and her position has been strengthened by the reversal of a mistaken policy. Nor has the church just cause of apprehension from any general sentiment of hostility on the part of Protestant nonconformists. Numbers frequent her services, and are still married at her altars.[3] The Wesleyans, dwelling just outside her gates, are friends and neighbors, rather than adversaries. The most formidable and aggressive of her opponents are the Independents. With them the "voluntary principle" in religion is a primary article of faith. They condemn all church establishments; and the Church of England is the foremost example to be denounced and assailed.

Whatever the future destinies of the church, the gravest reflections arise out of the later development of the Reformation. The church was then united to the state. Her convocation, originally depen- Relations of the church to Parliament.

200,000. — Rep. of Education Com., 1861, p. 593, 594; Bishop of London's Charge, 1862, p. 35.

[1] The Original Connection, New Connection, Primitive Methodists, Bible Christians, Wesleyan Methodist Association, Independent Methodists, Wesleyan Reformers, Welsh Calvinistic Methodists, and Countess of Huntingdon's Connection.

[2] General, Particular, Seventh-day, Scotch, New Connection General.

[3] Eighty per cent. of all marriages are celebrated by the church. — Rep. of Registrar Gen., 1862, p. viii.

dent, has since lost all but a nominal place in the ecclesiastical polity of the realm. And what have become the component parts of the legislature, which directs the government, discipline, revenues, nay even the doctrines, of the church? The Commons, who have attained a dominant authority, are representatives of England, — one third nonconformist, — of Presbyterian Scotland, and of Catholic Ireland. In the union of church and state no such anomaly had been foreseen; yet has it been the natural consequence of the Reformation, followed by the consolidation of these realms and the inevitable recognition of religious liberty in a free state.

Influence of dissent upon political liberty.

However painful the history of religious schisms and conflicts, they have not been without countervailing uses. They have extended religious instruction, and favored political liberty. If the church and dissenters, united, have been unequal to meet the spiritual needs of this populous land, — what could the church, alone and unaided, have accomplished? Even if the resources of dissent had been placed in her hands, rivalry would have been wanting, which has stimulated the zeal of both. Liberty owes much to schism. It brought down the high prerogatives of the Tudors and Stuarts; and in later times, has been a powerful auxiliary in many popular movements. The undivided power of the church, united to that of the crown and aristocracy, might have proved too strong for the people. But while she was weakened by dissent, a popular party was growing up, opposed to the close political organization with which she was associated. This party was naturally joined by dissenters; and they fought side by side in the long struggle for civil and religious liberty.

The Papal aggression, 1850.

The church and dissenters, generally opposed on political questions affecting religion, have been prompt to make common cause against the church of Rome. The same strong spirit of Protestantism which united them in resistance to James II. and his House, has since brought them together on other occasions. Dissenters

while seeking justice for themselves, had been no friends to Catholic emancipation; and were far more hostile than churchmen to the endowment of Maynooth.[1] And in 1851, they joined the church in resenting an aggressive movement of the Pope, which was felt to be an insult to the Protestant people of England.

For some time irritation had been growing, in the popular mind, against the church of Rome. The activity of the priesthood was everywhere apparent. Chapels were built, and religious houses founded.[2] A Catholic cathedral was erected in London. Sisters of mercy, in monastic robes, offended the eyes of Protestants. Tales of secret proselytism abounded. No family was believed to be safe from the designs of priests and Jesuits. Protestant heiresses had taken the veil, and endowed convents: wives of Protestant nobles and gentlemen had secretly renounced the faith in which their marriage vows were given: fathers, at the point of death, had disinherited their own flesh and blood, to satisfy the extortion of confessors. Young men at Oxford, in training for the church, had been perverted to Romanism. At the same time, in the church herself, the tractarian, or high church clergy, were reverting to ceremonies associated with that faith; and several had been gained over to the church of Rome. While Protestants, alarmed by these symptoms, were disposed to over-estimate their significance, the ultramontane party among the Catholics, encouraged by a trifling and illusory success, conceived the extravagant design of reclaiming Protestant England to the fold of the Catholic church.

In September, 1850, Pope Pius IX., persuaded that the time had come for asserting his ancient pretensions within this realm, published a brief, providing for the ecclesiastical government of England. Hitherto the church of Rome in England had been superintended by eight vicars apostolic; but now the Pope, considering the "already large number of Catholics," and "how the hindrances which

The Pope's brief, 1850.

[1] See *infra*, p. 455.

[2] See *supra*, p. 119.

stood in the way of the spreading of the Catholic faith are daily being removed," saw fit to establish "the ordinary form of episcopal rule in that kingdom;" and accordingly divided the country into one metropolitan, and twelve episcopal sees. And to his archbishop and bishops he gave "all the rights and privileges which the Catholic archbishops and bishops, in other states, have and use, according to the common ordinances of the sacred canons and apostolic constitutions." Nor did the brief omit to state that the object of this change was "the wellbeing and advancement of Catholicity throughout England." [1]

Cardinal Wiseman's pastoral.

This was followed by a pastoral of Cardinal Wiseman, on his appointment as Archbishop of Westminster, exulting in the supposed triumph of his church. "Your beloved country," said he, "has received a place among the fair churches which, normally constituted, form the splendid aggregate of Catholic communion: Catholic England has been restored to its orbit in the ecclesiastical firmament, from which its light had long vanished, and begins now anew its course of regularly adjusted action round the centre of unity, the source of jurisdiction, of light, and of vigor." [2]

Catholic bishops enthroned.

The enthronization of the new bishops was celebrated with great pomp; and exultant sermons were preached on the revival of the Catholic church. In one of these, Dr. Newman, — himself a recent convert, — declared that "the people of England, who for so many years have been separated from the see of Rome, are about, of their own will, to be added to the holy church."

Popular indignation.

No acts or language could have wounded more deeply the traditional susceptibilities of the English people. For three hundred years, the papal supremacy had been renounced, and the Romish faith held in abhorrence. Even diplomatic relations with the sovereign of the Roman States, — as a temporal prince, — had until lately

[1] Papal Brief, Sept. 30th, 1850; Ann. Reg., 1850, App. 405.
[2] Pastoral, Oct. 7th, 1850; Ann. Reg., 1850, App. 411.

been forbidden.[1] And now the Pope had assumed to parcel out the realm into Romish bishopries, and to embrace the whole community in his jurisdiction. Never, since the Popish plot, had the nation been so stirred with wrath and indignation. Early in November, Lord John Russell, the Premier, increased the public excitement by a letter to the Bishop of Durham, denouncing "the aggression of the Pope as insolent and insidious," and associating it with the practices of the tractarian clergy of the Church of England.[2] Clergy and laity, churchmen and dissenters, vied with one another in resentful demonstrations; and in the bonfires of the 5th of November, — hitherto the sport of children, — the obnoxious effigies of the Pope and Cardinal Wiseman were immolated, amidst the execrations of the multitude. No one could doubt the Protestantism of England. Calm observers saw in these demonstrations ample proof that the papal pretensions, however insolent, were wholly innocuous; and Cardinal Wiseman, perceiving that in his over-confidence he had mistaken the temper of the people, sought to moderate their anger by a conciliatory address. The ambitious episcopate now assumed the modest proportions of an arrangement for the spiritual care of a small body of Roman Catholics.

Meanwhile, the government and a vast majority of the people were determined that the papal aggression shall be repelled; but how? If general scorn and indignation could repel an insult, it had already been amply repelled; but action was expected on the part of the state; and how was it to be taken? Had the laws of England been violated? The Catholic Relief Act of 1829 forbade the assumption of any titles belonging to the bishops of the Church of England and Ireland;[3] but the titles of these new bishops being taken from places not appropriated

Difficulties of the case.

[1] In 1848 an Act was passed, with some difficulty, to allow diplomatic relations with the sovereign of the Roman States. — 11 & 12 Vict. c. 108; Hans. Deb., 3d Ser., xcvi. 169; ci. 227, 234.

[2] Nov. 4th, 1850; Ann. Reg., 1850, p. 198.

[3] 10 Geo. IV. c. 7, s. 24.

by existing sees, their assumption was not illegal. Statutes, indeed, were still in force prohibiting the introduction of papal bulls or letters into this country.[1] But they had long since fallen into disuse; and such communications had been suffered to circulate, without molestation, as natural incidents to the internal discipline of the church of Rome. To prosecute Cardinal Wiseman for such an offence would have been an act of impotent vengeance. Safe from punishment, he would have courted martyrdom. The Queen's supremacy in all matters, ecclesiastical and temporal, was undoubted; but had it been invaded? When England professed the Catholic faith, the jurisdiction of the Pope had often conflicted with that of the crown. Both were concerned in the government of the same church; but now the spiritual supremacy of the crown was exercised over the church of England only. Roman Catholics, — in common with all other subjects not in communion with the church, — enjoyed full toleration in their religious worship; and it was an essential part of their faith and polity to acknowledge the spiritual authority of the Pope. Could legal restraints, then, be imposed upon the internal government of the church of Rome, without an infraction of religious toleration? True, the papal brief, in form and language, assumed a jurisdiction over the whole realm; and Cardinal Wiseman had said of himself, "We govern, and shall continue to govern, the counties of Middlesex, Hertford, and Essex." But was this more than an application of the immutable forms of the church of Rome to altered circumstances? In governing Roman Catholics, did the Pope wrest from the Queen any part of her ecclesiastical supremacy?

Such were the difficulties of the case; and ministers endeavored to solve them by legislation. Drawing a broad distinction between the spiritual jurisdiction of the Pope over the members of his church

Ecclesiastical Titles Bill, Feb 7th, 1851.

[1] In 1846, that part of the 13th Eliz. which attached the penalties of treason to this offence had been repealed, but the law continued in force.

and an assumption of sovereignty over the realm, they proposed to interdict all ecclesiastical titles derived from places in the United Kingdom. Let the Catholics, they argued, be governed by their own bishops: let the Pope freely appoint them: leave entire liberty to Catholic worship and polity: but reserve to the civil government of this country alone the right to create territorial titles. Upon this principle a bill was introduced into the House of Commons by Lord John Russell. The titles assumed by the Catholic bishops were prohibited: the brief or rescript creating them was declared unlawful: the acts of persons bearing them were void; and gifts or religious endowments acquired by them, forfeited to the crown.[1] These latter provisions were subsequently omitted by ministers;[2] and the measure was confined to the prohibition of territorial titles. It was shown that in no country in Europe, — whether Catholic or Protestant, — would the Pope be suffered to exercise such an authority, without the consent of the state; and it was not fit that England alone should submit to his encroachments upon the civil power. But as the bill proceeded, the difficulties of legislation accumulated. The bill embraced Ireland, where such titles had been permitted, without objection, since the Relief Act of 1829. It would, therefore, withdraw a privilege already conceded to Roman Catholics, and disturb that great settlement. Yet, as the measure was founded upon the necessity of protecting the sovereignty of the crown, no part of the realm could be excepted from its operation. And thus, for the sake of repelling an aggression upon Protestant England, Catholic Ireland was visited with this new prohibition.

The bill encountered objections, the most opposite and contradictory. On one side, it was condemned as a violation of religious liberty. The Catholics, it was said, were everywhere governed by bishops, to whom districts were assigned, universally known as dioceses, and

Objections to the bill.

[1] Feb. 7th, 1851. Hans. Deb., 3d Ser., cxiv. 187.
[2] March 7th; *Ibid.*, 1123.

distinguished by some local designation. To interfere with the internal polity of the church of Rome was to reverse the policy of toleration, and might eventually lead to the revival of penal laws. If there was insolence in the traditional language of the Court of Rome, let it be repelled by a royal proclamation, or by addresses from both Houses, maintaining Her Majesty's undoubted prerogatives; but let not Parliament renew its warfare with religious liberty. On the other hand, it was urged that the encroachments of the church of Rome upon the temporal power demanded a more stringent measure than that proposed, — severer penalties, and securities more effectual.

These opposite views increased the embarrassments of the government, and imperilled the success of the measure. For a time, ministers received the support of large majorities who, — differing upon some points, — were yet agreed upon the necessity of a legislative condemnation of the recent measures of the church of Rome. But on the report of the bill, amendments were proposed by Sir F. Thesiger, to increase the stringency of its provisions. They declared illegal, not only the particular brief, but all similar briefs; extended to every person the power of prosecuting for offences, with the consent of the attorney-general; and made the introduction of bulls or rescripts a penal offence.

Such stringency went far beyond the purpose of ministers, and they resisted the amendments; but a considerable number of members, — chiefly Roman Catholics, — hoping that ministers, if overborne by the opposition, would abandon the bill, retired from the House and left ministers in a minority. The amendments, however, were accepted, and the bill was ultimately passed.[1]

Results of the bill.

It was a protest against an act of the Pope which had outraged the feelings of the people of England: but as a legislative measure, it was a dead letter. The

[1] 14 & 15 Vict. c. 60; Hans. Deb., 3d Ser., cxiv. cxv. cxvi., *passim* Ann. Reg., 1851, ch. ii. iii.

church of Rome receded not a step from her position; and Cardinal Wiseman and the Catholic bishops, — as well in England as in Ireland, — continued to bear, without molestation, the titles conferred upon them by the Pope. The excitement of the people, and acrimonious discussions in Parliament, revived animosities which recent legislation had tended to moderate: yet these events were not unfruitful of good. They dispelled the wild visions of the ultramontane party: checked the tractarian movement in the Church of England; and demonstrated the sound and faithful Protestantism of the people. Nor had the ultramontane party any cause of gratulation, in their apparent triumph over the state. They had given grave offence to the foremost champions of the Catholic cause: their conduct was deplored by the laity of their own church; and they had increased the repugnance of the people to a faith, which they had scarcely yet learned to tolerate.

Church of Scotland: schisms and dissent.

The church of Scotland, like her sister-church of England, has also been rent by schisms. The protracted efforts of the English government to sustain episcopacy in the establishment,[1] resulted in the foundation of a distinct episcopalian church. Comparatively small in numbers, this communion embraced a large proportion of the nobility and gentry who affected the English connection and disliked the democratic spirit and constitution of the Presbyterian church. In 1732, the establishment was further weakened by the retirement of Ebenezer Erskine, and an ultra-puritanical sect, who founded the Secession Church of Scotland.[2] This was followed by the foundation of another seceding church, called the Presbytery of Relief, under Gillespie, Boston, and Colier;[3] and by the growth of

[1] *Supra*, p. 300.

[2] Cunningham's Church Hist of Scotland, ii. 427–440, 450–455; Moncrieff's Life of Erskine; Fraser's Life of Erskine; Thomson's Hist. of the Secession Church.

[3] Cunningham's Ch. Hist., ii. 501, 513. In 1847 the Secession Church and the Relief Synod were amalgamated under the title of the "United Presbyterian Church."

independents, voluntaries, and other sects. But the widest schism is of recent date; and its causes illustrate the settled principles of Presbyterian polity, and the relations of the church of Scotland to the state.

History of patronage.

Lay patronage had been recognized by the Catholic church in Scotland, as elsewhere; but the Presbyterian church soon evinced her repugnance to its continuance. Wherever lay patronage has been allowed, it has been the proper office of the church to judge of the qualifications of the clergy presented by patrons. The patron nominates to a benefice; the church approves and inducts the nominee. But this limited function, which has ever been exercised in the church of England, did not satisfy the Scottish reformers, who, in the spirit of other Calvinistic churches, claimed for the people a voice in the nomination of their own ministers. Knox went so far as to declare, in his First Book of Discipline, — which, however, was not adopted by the church, — "that it appertaineth unto the people, and to every several congregation, to elect their minister."[1] The Second Book of Discipline, adopted as a standard of the church in 1578, qualified this doctrine; but declared "that no person should be intruded in any offices of the kirk contrary to the will of the congregation, or without the voice of the eldership."[2] But patronage being a civil right, the state undertook to define it, and to prescribe the functions of the church. In 1567, the Parliament declared that the presentation to benefices "was reserved to the just and ancient patrons," while the examination and admission of ministers belonged to the church. Should the induction of a minister be refused, the patron might appeal to the General Assembly.[3] And again, by an Act of 1592, presbyteries were required to receive and admit whatever qualified minister was presented by the crown or lay patrons.[4] In the troublous times of 1649,

[1] A. D. 1560, ch. iv. s. ii. Robertson's Auchterarder Case, i. 22 (Mr. Whigham's argument), &c.

[2] Ch. iii. s. 4 & 5; and again, in other words, ch. xii. s. 9 & 10.

[3] Scots Acts, 1567, c. 7.

[4] James VI. Parl., xii. c. 116.

the church being paramount, Parliament swept away all lay patronage as a "popish custom."[1] On the Restoration it was revived, and rendered doubly odious by the persecutions of that period. The Revolution restored the ascendency of the Presbyterian Church and party; and again patronage was overthrown. By an Act of 1690, the elders and heritors were to choose a minister for the approval of the congregation; and if the latter disapproved the choice, they were to state their reasons to the presbytery, by whom the matter was to be determined.[2] Unhappily this settlement, so congenial to Presbyterian traditions and sentiment, was not suffered to be permanent. At the Union, the constitution and existing rights of the church of Scotland were guaranteed: yet within five years, the heritors determined to reclaim their patronage. The time was favorable: Jacobites and high church Tories were in the ascendant, who hated Scotch Presbyterians no less than English dissenters; and an Episcopalian Parliament naturally favored the claims of patrons. An Act was therefore obtained in 1712, repealing the Scotch Act of 1690, and restoring the ancient rights of patronage.[3] It was an untoward act, conceived in the spirit of times before the Revolution. The General Assembly then protested against it as a violation of the treaty of union: and long continued to record their protest.[4] The people of Scotland were outraged. Their old strife with Episcopalians was still raging; and to that communion most of the patrons belonged. For some time patrons did not venture to exercise their rights: ministers continued to be called by congregations; and some who accepted presentations from lay patrons were degraded by the church.[5] Patronage, at first a

[1] Scots Acts, 1649, c. 171.

[2] *Ibid.*, 1690, c. 23.

[3] 10 Anne, c. 12.

[4] Carstare's State Papers, App. 796–800; Cunningham's Church Hist. of Scotland, ii. 362. Claim of Rights of the Church of Scotland, May, 1842 p. 9; D'Aubigné's Germany, England, and Scotland, 377–385.

[5] Cunningham's Church Hist., ii. 420.

cause of contention with the state and the laity, afterwards brought strifes into the church herself. The Assembly was frequently at issue with presbyteries, concerning the induction of ministers. The church was also divided on the question of presentations; the moderate party, as it was called, favoring the rights of patrons, and the popular party the calls of the people. To this cause was mainly due the secession of Ebenezer Erskine[1] and Gillespie,[2] and the foundation of their rival churches. But from about the middle of the last century the moderate party, having obtained a majority in the Assembly, maintained the rights of patrons; and thus, without any change in the law, the Act of 1712 was, at length, consistently enforced.[3] A call by the people had always formed part of the ceremony of induction; and during the periods in which lay patronage had been superseded, it had unquestionably been a substantial election of a minister by his congregation.[4] A formal call continued to be recognized; but presbyteries did not venture to reject any qualified person duly presented by a patron. At the end of the century, the patronage question appeared to have been set at rest.[5]

Lay patronage a cause of dissent.

But the enforcement of this law continued to be a fertile cause of dissent from the establishment. When a minister was forced upon a congregation by the authority of the Presbytery or General Assembly, the people, instead of submitting to the decision of the church, joined the Secession Church, the Presbytery of

1 Cunningham's Church Hist. of Scotland, ii. 419–446, 450–455; Thomson's Hist. of the Secession Church; Moncrieff's Life of Erskine, Fraser's Life of Erskine.

2 Cunningham's Church Hist., ii. 501, 513.

3 Cunningham's Church Hist. of Scotland, ii. 491–500, 511, 537, 558; D'Aubigné's Germany, England, and Scotland, 388–394; Judgments in first Auchterarder case.

4 Judgments of Lord Brougham and the Lord Chancellor in the first Auchterarder case, p. 239, 334, 335.

5 Cunningham's Church Hist. of Scotland, ii. 581.

Relief, or the Voluntaries.[1] No people in Christendom are so devoted to the pulpit as the Scotch. There all the services of their church are centred. No liturgy directs their devotion: the minister is all in all to them,— in prayer, in exposition, and in sermon. If acceptable to his flock, they join devoutly in his prayers, and are never weary of his discourses: if he finds no favor, the services are without interest or edification. Hence a considerable party in the church were persuaded that a revival of the ancient principles of their faith, which recognized the potential voice of the people in the appointment of ministers, was essential to the security of the establishment.

Hostility to lay patronage was continually increasing, and found expression in petitions and parliamentary discussion.[2] Meanwhile the "non-intrusion party," led by Dr. Chalmers, was gaining ground in the General Assembly. In 1834, they had secured a majority; and, without awaiting remedial measures from Parliament, they succeeded in passing the celebrated "Veto Act."[3] This act declared it to "be a fundamental law of the church that no pastor shall be intruded on a congregation, contrary to the will of the people;" and provided that if, without any special objections to the moral character, doctrine, or fitness of a presentee, the majority of the male heads of families signified their dissent, the presbytery should, on that ground alone, reject him. Designed, in good faith, as an amendment of the law and custom of the church, which the Assembly was competent to make, it dealt with rights already defined by Parliament. Patronage was border land, which the church had already contested with the state; and it is to be lamented that the Assembly should thus have entered upon it, with

The Veto Act, 1834.

[1] Cunningham's Church Hist. of Scotland, ii. 581; Report on Church Patronage (Scotland), 1834, Evidence.

[2] July 16th, 1833, on Mr. Sinclair's motion. — Hans. Deb., 3d Ser., xix. 704.

[3] It was termed "Overture and Interim-Act on Calls," May 31st; with regulations, June 2d. It was confirmed May 29th, 1835.

out the concurrence of Parliament. Never was time so propitious for the candid consideration of religious questions. Reforms were being introduced into the church; the grievances of dissenters were being redressed; a popular party were in the ascendant; and agitation had lately shown its power over the deliberations of the legislature. A Veto Act, or other compromise sanctioned by Parliament, would have brought peace to the church. But now the state had made one law: the church another; and how far they were compatible was soon brought to a painful issue.

Auchterarder case, 1834–1839.

In the same year, Lord Kinnoull presented Mr. Young to the vacant parish of Auchterarder; but a majority of the male heads of families having objected to his presentation, without stating any special grounds of objection, the presbytery refused to proceed with his trials, in the accustomed form, and judge of his qualifications. Mr. Young appealed to the synod of Perth and Stirling, and thence to the General Assembly; and the presbytery being upheld by both these courts, rejected Mr Young.

Adverse judgments of the civil courts.

Having vainly appealed to the superior church courts, Lord Kinnoull and Mr. Young claimed from the Court of Session an enforcement of their civil rights. They maintained that the presbytery, as a church court, were bound to adjudge the fitness of the presentee, and not to delegate that duty to the people, whose right was not recognized by law; and that his rejection, on account of the veto, was illegal. The presbytery contended that, admission to the pastoral office being the function of the church, she had a right to consider the veto of the congregation as a test of fitness, and to prescribe rules for the guidance of presbyteries. In the exercise of such functions the jurisdiction of the church was supreme and beyond the control of the civil tribunals. The court, however, held that neither the law of the church, prior to the Veto Act, nor the law of the land, recognized the right of a congregation to reject

a qualified minister. It was the duty of the presbytery to judge of his fitness, on grounds stated and examined; and the Veto Act, in conferring such a power upon congregations, violated the civil and patrimonial rights of patrons, secured to them by statute, and hitherto protected by the church herself. Upon the question of jurisdiction, the court maintained its unquestionable authority to give redress to suitors who complained of a violation of their civil rights; and while admitting the competency of the church to deal with matters of doctrine and discipline, declared that in trenching upon civil rights she had transgressed the limits of her jurisdiction. To deny the right of the Court of Session to give effect to the provisions of the statute law, when contravened by church courts, was to establish the supremacy of the church over the state.[1] From this decision the Presbytery appealed to the House of Lords, by whom, after able arguments at the bar, and masterly judgments from Lord Chancellor Cottenham and Lord Brougham, it was, on every point, affirmed.[2]

Resistance of the General Assembly.

Submission to the law, even under protest, and an appeal to the remedial equity of Parliament, might now have averted an irreconcilable conflict between the civil and ecclesiastical powers, without an absolute surrender of the principles for which the church was contending. But this occasion was lost. The Assembly, indeed, suspended the operation of the Veto Act for a year; and agreed that, so far as the temporalities of Auchterarder were concerned, the case was concluded against the church. The manse, the glebe, and the stipend should be given up; but whatever concerned the duties of a presbytery, in regard to the cure of souls and the ministry of the gospel, was purely ecclesiastical and beyond the jurisdiction of any civil court. A presbytery being a church court, exercising

[1] Robertson's Report of the Auchterarder Case, 2 vols. 8vo., 1838.

[2] Maclean and Robinson's cases decided in the House of Lords, 1839. i. 220.

spiritual powers, was amenable to the Assembly only, and was not to be coerced by the civil power. On these grounds it was determined to refuse obedience to the courts; and the hopeless strife continued between the two jurisdictions, embittered by strong party differences in the Assembly and among the laity of Scotland. Parliament alone could have stayed it: but the resistance of the church forbade its interposition; and a compromise, proposed by Lord Aberdeen was rejected by the Assembly.

Second Auchterarder case.

The judgment of the Court of Session having been affirmed, the presbytery were directed to make trial of the qualifications of Mr. Young; but they again refused. For this refusal Lord Kinnoull and Mr. Young brought an action for damages, in the Court of Session, against the majority of the presbytery; and obtained an unanimous decision that they were entitled to pecuniary redress for the civil wrongs they had sustained. On appeal to the House of Lords, this judgment also was unanimously affirmed.[1] In another case, the Court of Session interfered in a more peremptory form. The crown presented Mr. Mackintosh to the living of Daviot and Dunlichity: when several parishioners, who had been canvassing for another candidate, whose claims they had vainly pressed upon the secretary of state, prepared to exercise a veto. But as such a proceeding had been pronounced illegal by the House of Lords, Mr. Mackintosh obtained from the Court of Session a decree, interdicting the heads of families from appearing before the presbytery and declaring their dissent without assigning special objections.[2]

Daviot case, Dec. 17th, 1839.

The Strathbogie cases.

While this litigation was proceeding, the civil and ecclesiastical authorities were brought into more direct and violent collision. Mr. Edwards was presented, by the trustees of Lord Fife, to the living of

[1] July 11th, 1842. Bell's Cases decided in the House of Lords, i. 662.

[2] Dunlop, Bell and Murray's Reports, ii. 253.

Marnoch, in the presbytery of Strathbogie; but a majority of the male heads of families having signified their veto, the seven ministers constituting the presbytery, in obedience to the law of the church and an order of the General Assembly, refused to admit him to his trials. Mr. Edwards appealed to the Court of Session, and obtained a decree directing the presbytery to admit him to the living, if found qualified. The ministers of the presbytery were now placed in the painful dilemma of being obliged to disobey either the decree of the civil court, or the order of the supreme court of the church. In one case they would be punished for contempt; in the other for contumacy. Prohibited by a commission of Assembly from proceeding further before the next General Assembly, they nevertheless resolved, as ministers of the established church sworn to pay allegiance to the crown, to render obedience to the law, constitutionally interpreted and declared. For this offence against the church they were suspended by the commission of Assembly; and their proceedings as a presbytery were annulled.[1]

The Court of Session, thus defied by the church, suspended the execution of the sentence of the commission of Assembly against the suspended ministers, prohibited the service of the sentence of suspension, and forbade other ministers from preaching or intruding into their churches or schools.[2] These proceedings being reported to the General Assembly, that body approved of the acts of the commission, further suspended the ministers, and again provided for the performance of their parochial duties. Again the Court of Session interfered, and prohibited the execution of these acts of the

The Strathbogie ministers, Feb. 14th, 1840.

[1] Dec. 11th, 1839.

[2] Dunlop, Bell, and Murray's Reports, ii. 258, 585. Lord Gillies on the question of jurisdiction, said: — "The pretensions of the church of Scotland, at present, are exactly those of the Papal See a few centuries ago. They not only decline the jurisdiction of the civil courts, but they deny that Parliament can bind them by a law which they choose to say is inconsistent with the law of Christ."

Assembly, which were in open defiance of its previous interdicts.[1] The church was in no mood to abate her pretensions. Hitherto the members of the Strathbogie presbytery had been under sentence of suspension only. They had vainly sought protection from Parliament; and on the 27th of May, 1841, the General Assembly deposed them from the ministry. Dr. Chalmers, in moving their deposition, betrayed the spirit which animated that Assembly, and the dangers which were now threatening the establishment. "The church of Scotland," he said, "can never give way, and will sooner give up her existence as a national establishment, than give up her powers as a self-acting and self-regulating body to do what in her judgment is best for the honor of the Redeemer and the interest of his kingdom upon earth."[2] It was evident that the ruling party in the Assembly were prepared to resist the civil authority, at all hazards.

The Strathbogie commissioners.

The contest between the civil and ecclesiastical jurisdictions was now pushed still further. The majority of the presbytery of Strathbogie, who had been deposed by the General Assembly but reinstated by the Court of Session, elected commissioners to the General Assembly: the minority elected others. The Court of Session interdicted the commissioners elected by the minority from taking their seats in the Assembly.[3] And in restraining the contumacy of these refractory commissioners, the civil court was forced to adjudge the constitution and rights of the Ecclesiastical Assembly. All these decisions were founded on the principle that ministers and members of the Church of Scotland were not to be permitted to refuse

[1] June 11th, 1840. Dunlop, Bell, and Murray's Reports, ii. 1047, 1380.

[2] Ann. Reg., 1841, p. 71-73; Hans. Deb., 3d Ser., lvii. 1377; lviii. 1503.

[3] May 27th, 1842. Dunlop, Bell, and Murray's Reports, iv. 1298. Lord Fullerton, who differed from the majority of the court, said: — "According to my present impression, this court has no more right to grant such an interdict, than to interdict any persons from taking their seats and acting and voting as members of the House of Commons." — *Ibid.*

obedience to the decrees of the civil courts of the realm, or to claim the exercise of rights which those courts had pronounced illegal. The church regarded them as encroachments upon her spiritual functions.

It was plain that such a conflict of jurisdictions could not endure much longer. One or the other must yield; or the legislature must interfere to prevent confusion and anarchy. In May 1842, the General Assembly presented to Her Majesty a claim, declaration, and protest, complaining of encroachments by the Court of Session; and also an address, praying for the abolition of patronage. These communications were followed by a memorial to Sir Robert Peel and the other members of his government, praying for an answer to the complaints of the church, which, if not redressed, would inevitably result in the disruption of the establishment. On behalf of the government, Sir James Graham, Secretary of State for the Home Department, returned a reply, stern and unbending in tone, and with more of rebuke than conciliation. The aggression, he said, had originated with the Assembly, who had passed the illegal Veto Act, which was incompatible with the rights of patrons as secured by statute. By the standards of the church, the Assembly were restrained from meddling with civil jurisdiction: yet they had assumed to contravene an Act of Parliament, and to resist the decrees of the Court of Session, the legal expositor of the intentions of the legislature. The existing law respected the rights of patrons to present, of the congregation to object, and of the church courts to hear and judge, — to admit or reject the candidate. But the Veto Act deprived the patrons of their rights, and transferred them to the congregations. The government were determined to uphold established rights and the jurisdiction of the civil courts; and would certainly not consent to the abolition of patronage. To this letter the General Assembly returned an answer of extraordinary logical

Claim and declaration of General Assembly, May, 1842.

Answer of Sir James Graham, Jan. 4th, 1843.

force; but the controversy had reached a point beyond the domain of argument.[1]

The church was hopelessly at issue with the civil power. Nor was patronage the only ground of conflict. The General Assembly had admitted the ministers of *quoad sacra* parishes and chapels of ease to the privileges of the parochial clergy, including the right of sitting in the assembly and other church courts.[2] The legality of the acts of the Assembly was called in question; and in January 1843, the Court of Session adjudged them to be illegal.[3] On the meeting of the Assembly on the 31st of January, a motion was made, by Dr. Cook, to exclude the *quoad sacra* ministers from that body, as disqualified by law; but it was lost by a majority of ninety-two. Dr. Cook and the minority, protesting against the illegal constitution of the Assembly, withdrew; and the *quoad sacra* ministers retained their seats, in defiance of the Court of Session. The conflict was approaching its crisis; and, in the last resort, the Assembly agreed upon a petition to Parliament, complaining of the encroachments of the civil courts upon the spiritual jurisdiction of the church, and of the grievance of patronage.

Quoad sacra ministers, Jan 20th, 1843.

This petition was brought under the consideration of the Commons by Mr. Fox Maule. He ably presented the entire case for the church; and the debate elicited the opinions of ministers and the most eminent members of all parties. Amid expressions of respect for the church, and appreciation of the learning, piety, and earnestness of her rulers, a sentiment prevailed that, until the General Assembly had rescinded the Veto Act in deference to the decision of the House of Lords, the interposition of Parliament could scarcely be claimed on her behalf. She had taken up her position, in open defiance of the civil authority; and nothing would satisfy her claims but

Petition of General Assembly, March 7th, 1843.

[1] Papers presented in answer to addresses of the House of Commons, Feb. 9th and 10th, 1843.

[2] Acts of Assembly, 1833, 1834, 1837, and 1839.

[3] Stewarton Case, Bell, Murray, &c., Reports, iv. 427.

submission to her spiritual jurisdiction. Some legislation might yet be possible; but this petition assumed a recognition of the claims of the church, to which the majority of the House were not prepared to assent. Sir Robert Peel regarded these claims as involving "the establishment of an ecclesiastical domination, in defiance of law," which "could not be acceded to without the utmost ultimate danger, both to the religious liberties and civil rights of the people." The House concurred in this opinion, and declined to entertain the claims of the church by a majority of one hundred and thirty-five.[1]

The secession, May 18th, 1843.

This decision was accepted by the non-intrusion party as conclusive; and preparations were immediately made for their secession from the church.[2] The General Assembly met on the 18th of May, when a protest was read by the moderator, signed by 169 commissioners of the Assembly, including *quoad sacra* ministers and lay elders. This protest declared the jurisdiction assumed by the civil courts to be "inconsistent with Christian liberty, and with the authority which the Head of the church hath conferred on the church alone." It stated that, the word and will of the state having recently been declared that submission to the civil courts formed a condition of the establishment, they could not, without sin, continue to retain the benefits of the establishment to which such condition was attached, and would therefore withdraw from it, — retaining, however, the confession of faith and standards of the church. After the reading of this protest, the remonstrants withdrew from the Assembly; and, joined by many other ministers, constituted the "Free Church of Scotland." Their schism was founded on the first principles of the Presbyterian polity, — repugnance to lay patronage, and repudiation of the civil

[1] Ayes, 76; Noes, 211. Hans. Deb., 3d Ser., lxvii. 354. 441. See also debate in the Lords on Lord Campbell's resolutions, March 31st; *Ibid.* lxviii. 218; Debate on *Quoad Sacra* Ministers, May 9th; *Ibid.*, lxix. 12.

[2] Minute of Special Commission of the General Assembly, March 20th; Ann. Reg., 1843, p. 245.

jurisdiction in ecclesiastical affairs. These principles, — at issue from the very foundation of the church, — had now torn her asunder.[1]

Veto Act rescinded.

A few days afterwards, the General Assembly rescinded the Veto Act, and the act admitting *quoad sacra* ministers to that court; and annulled the sentences upon the Strathbogie ministers. The seceders were further declared to have ceased to be members of the church, and their endowments pronounced vacant.[2] The church thus submitted herself, once more, to the authority of the law; and renewed her loyal alliance with the state.

The Free Church of Scotland.

The secession embraced more than a third of the clergy of the church of Scotland; and afterwards received considerable accessions of strength.[3] Some of the most eminent of the clergy, — including Dr. Chalmers and Dr. Candlish, — were its leaders. Their eloquence and character insured the popularity of the movement; and those who denied the justice of their cause, and blamed them as the authors of a grievous schism, could not but admire their earnestness and noble self-denial. Men, highly honored in the church, had sacrificed all they most valued to a principle which they conscientiously believed to demand that sacrifice. Their once crowded churches were surrendered to others, while they went forth to preach on the hillside, in tents, in barns, and stables. But they relied, with just confidence, upon the sympathies and liberality of their flocks;[4] and in a few years the spires of their free

[1] Sydow's Scottish Church Question, 1845; D'Aubigné's Germany, England, and Scotland, 377–459; Buchanan's Ten Years' Conflict.

[2] Ann. Reg., 1843, p. 250; D'Aubigné's Germany, England, and Scotland, 443–459.

[3] Of 947 parish ministers, 214 seceded; and of 246 *quoad sacra* ministers, 144 seceded. — Ann. Reg., 1843, p. 255; Speech of Lord Aberdeen, June 13th, 1843; Hans. Deb., 3d Ser., lxix. 1414; Hannay's Life of Dr. Chalmers.

[4] In eighteen years they contributed 1,251,458*l.* for the building of churches, manses, and schools; and for all the purposes of their new establishment no less a sum than 5,229,631*l.* Tabular abstracts of sums con

kirks were to be seen in most of the parishes of Scotland.

When this lamentable secession had been accomplished, the government at length undertook to legislate upon the vexed question of patronage. In 1840, Lord Aberdeen had proposed a bill, in the vain hope of reconciling the conflicting views of the two parties in the church; and this bill he now offered as a settlement of the claims of patrons, the church, and the people. The Veto Act had been pronounced illegal, as it delegated to the people the functions of the church courts; and in giving the judgment of the House of Lords, it had been laid down that a presbytery, in judging of the qualifications of a minister, were restricted to an inquiry into his "life, literature, and doctrine." The bill, while denying a capricious veto to the people, recognized their right of objecting to a presentation, in respect of "ministerial gifts and qualities, either in general, or with reference to that particular parish;" of which objections the presbytery were to judge. In other words, they might show that a minister, whatever his general qualifications, was unfitted for a particular parish. He might be ignorant of Gaelic, among a Gaelic population: or too weak in voice to preach in a large church: or too infirm of limb to visit the sick in rough Highland glens. It was argued that, with so wide a field of objection, the veto was practically transferred from the people to the presbytery; and that the bill being partly declaratory amounted to a partial reversal of the judgment of the Lords in the Auchterarder case. But, after learned discussions in both Houses, it was passed by Parliament, in the hope of satisfying the reasonable wishes of the moderate party in the church, who respected the rights of patrons, yet clung to the Calvinistic principle which recognized the concurrence of the people.[1]

Patronage Act, 1843.

tributed to Free Church of Scotland to 1858-1859, with MS. additions for the two following years, obtained through the kindness of Mr. Dunlop, M.P

[1] Lords' Deb., June 13th, July 3d, 17th, 1843; Hans. Deb., 3d Ser., lxix 1400; lxx. 534, 1202; Commons' Deb., July 31st, Aug. 10th, 1843; Hans Deb., lxxi. 10, 517; 6 & 7 Vict. c. 61.

To the people was now given the full privilege of objection; and to the church judicatories the exclusive right of judgment.

Religious disunion in Scotland.

The secession of 1843, following prior schisms, augmented the religious disunion of Scotland; and placed a large majority of the people out of communion with the state church, — which the nation itself had founded at the Reformation.[1]

Church in Ireland.

Let us now turn, once more, to the history of the church in Ireland. Originally the church of a minority, she had never extended her fold. On the contrary, the rapid multiplication of the Catholic peasantry had increased the disproportion between the members of her communion and a populous nation. At the Union, indeed, she had been united to her powerful sister church in England;[2] and the weakness of one gained support from the strength of the other. The law had joined them together; and constitutionally they became one church. But no law could change the essential character of the Irish establishment, or its relations to the people of that country. In vain were English Protestants reckoned among its members. No theory could disturb the proportion of Protestants and Catholics in Ireland. While the great body of the people were denied the rights of British subjects, on account of their religion, that grievance had caused the loudest complaints. But in the midst of the sufferings and discontents of that unhappy land, jealousy of the Protestant church, aversion to her endowed clergy, and repugnance to contribute to the maintenance of the established religion, were ever proclaimed as prominent causes of disaffection and outrage.

[1] In 1851, of 3395 places of worship 1183 belonged to the Established Church; 889 to the Free Church; 465 to the United Presbyterian Church; 112 to the Episcopal Church; 104 to Roman Catholics; and 642 to other religious denominations, embracing most of the sects of English dissenters. On the census Sunday 228,757 attended the morning service of the Established Church; and no less than 255,482 that of the Free Church (Census Returns, 1851). In 1860, the latter had 234,953 communicants.

[2] Act of Union, Art. 5.

Foremost among the evils by which the church and the people were afflicted, was the law of tithes. However impolitic in England,[1] its impolicy was aggravated by the peculiar condition of Ireland. In the one country, tithes were collected from a few thriving farmers, — generally members of the church: in the other, they were levied upon vast numbers of cottier tenants, — miserably poor, and generally Catholics.[2] Hence, the levy of tithes, in kind, provoked painful conflicts between the clergy and the peasantry. Statesmen had long viewed the law of tithes with anxiety. So far back as 1786, Mr. Pitt had suggested the propriety of a general commutation, as a measure calculated to remove grievances and strengthen the interests of the church.[3] In 1807, the Duke of Bedford, attributing most of the disorders of the country to the rigid exaction of tithes, had recommended their conversion into a land tax, and ultimately into land.[4] Repeated discussions in Parliament had revealed the magnitude of the evils incident to the law. Sir John Newport, in 1822,[5] and Sir Henry Parnell in 1823,[6] had exposed them. In 1824, Lord Althorp and Mr. Hume had given them a prominent place among the grievances of Ireland.[7] The evils were notorious, and, remaining without correction, grew chronic and incurable. The peasants were taught by their own priesthood, and by a long course of political agitation, to resent the demands of the clergy as unjust:

Resistance to tithes.

[1] *Supra*, p. 416.

[2] In one parish 200*l.* were contributed by 1600 persons; in another 700*l.*, by no less than two thousand. — Second Report of Commons' Committee, 1832. In a parish in the county of Carlow, out of 446 tithe-payers 221 paid sums under 9*d.*; and out of a body of 7005, in several parishes, one third paid less than 9*d.* each. — *Mr. Littleton's Speech*, Feb. 20th, 1834.

[3] Letter to the Duke of Rutland; Lord Stanhope's Life of Pitt, i. 319. See also Lord Castlereagh's Corr., iv. 193 (1801).

[4] Speech of Lord John Russell, June 23d, 1834; Hans. Deb., 3d Ser., xxiv. 798.

[5] Hans. Deb., 2d Ser., vi. 1475; Mr. Hume also, March 4th, 1823; *Ibid.* viii. 367.

[6] *Ibid.*, ix. 1175

[7] *Ibid.*, xi. 547, 660.

their poverty aggravated the burden; and their numbers rendered the collection of tithes not only difficult but dangerous. It could only be attempted by tithe-proctors, — men of desperate character and fortunes, whose hazardous services hardened their hearts against the people, and whose rigorous execution of the law increased its unpopularity. To mitigate these disorders, an Act was passed, in 1824, for the voluntary composition of tithes: but the remedy was partial; and resistance and conflicts continued to increase with the bitterness of the strife that raged between Protestants and Catholics. At length, in 1831, the collection of tithes in many parishes became impracticable. The clergy received the aid of the police, and even of the military; but in vain. Tithe-proctors were murdered; and many lives were lost, in collisions between the police and the peasantry. Men, not unwilling to pay what they knew to be lawful, were intimidated and coerced by the more violent enemies of the church. Tithes could only be collected at the point of the bayonet; and a civil war seemed impending over a country, which for centuries had been wasted by conquests, rebellions, and internecine strife. The clergy shrank from the shedding of blood in their service; and abandoned their claims upon a refractory and desperate people.

Provision for the clergy, 1832-1833.

The law was at fault; and the clergy, deprived of their legal maintenance, were starving, or dependent upon private charity.[1] That the law must be reviewed, was manifest; but in the mean time, immediate provision was needed for the clergy. The state, unable to protect them in the enforcement of their rights, deemed itself responsible for their sufferings, and extended its helping hand. In 1832, the Lord-lieutenant was empowered to advance 60,000*l.* to the clergy who had been unable to collect the tithes of the previous year;[2] and the government rashly

[1] Reports of Committees in Lords and Commons, 1832. Ann. Reg 1831, p. 324; 1832, p. 281.

[2] Act 2 & 3 Will. IV. c. 41.

undertook to levy the arrears of that year, in repayment of the advance. Their attempt was vain and hopeless. They went forth, with an array of tithe-proctors, police, and military; but the people resisted. Desperate conflicts ensued: many lives were lost: the executive became as hateful as the clergy; but the arrears were not collected. Of 100,000*l.*, no more than 12,000*l.* were recovered, at the cost of tumults and bloodshed.[1] The people were in revolt against the law; and triumphed. The government, confessing their failure, abandoned their fruitless efforts; and in 1833, obtained from Parliament the advance of a million, to maintain the destitute clergy, and cover the arrears of tithes for that and the two previous years. Indemnity for this advance, however, was sought in the form of a land tax, which, it needed little foresight to conjecture, would meet with the same resistance as tithes.[2] These were temporary expedients, to meet the immediate exigencies of the Irish clergy; and hitherto the only general measure which the legislature had sanctioned, was one for making the voluntary tithe compositions compulsory and permanent.[3]

Meanwhile, the difficulties of the tithe question were bringing into bold relief the anomalous condition of the Irish church. Resistance to the payment of tithes was accompanied by fierce vituperation of the clergy, and denunciations of a large Protestant establishment in the midst of a Catholic people. The Catholic priests and agitators would have trampled upon the church as an usurper: the Protestants and Orangemen were prepared to defend her rights with the sword. Lord Grey's government, leaning to neither extreme, recognized the necessity of extensive reforms and reductions in the establishment. Notwithstanding the spoliations of Henry VIII. and Elizabeth, its endowments were on the ambitious scale of a national church. With fewer members than a moderate diocese in England, it

Irish church reform.

[1] Speech of Mr. Littleton; Hans. Deb., 3d Ser., xx. 342.
[2] 3 & 4 Will. IV. c. 100; Hans. Deb., 3d Ser., xx. 350.
[3] 2 & 3 Will. IV. c. 119.

was governed by no less than four archbishops and eighteen bishops. Other dignitaries enjoyed its temporalities in the same proportion; and many sinecure benefices were without even Protestant flocks.

Such an establishment could not be defended; and in 1833, ministers introduced an extensive measure of reform. It suppressed, after the interests of existing incumbents, two archbishopries and eight separate sees; and reduced the incomes of some of the remaining bishops. All sinecure stalls in cathedrals were abolished, or associated with effective duties. Livings, in which no duties had been performed for three years, were not to be filled up. First fruits were abolished. Church cess, — an unpopular impost, similar to church-rates in England, — levied upon Catholics, but managed by Protestant vestries, — was discontinued; and the repair of churches provided for out of a graduated tax upon the clergy. Provision was made for the improvement of church lands; for the augmentation of small livings, and for the building of churches and glebe houses, under the superintendence of a commission, by whom the surplus revenues of the church were to be administered.[1]

Church Temporalities (Ireland) Bill, 1833.

So bold were these reforms, that even Mr. O'Connell at first expressed his satisfaction: yet while they discontinued the most prominent abuses of the establishment, they increased its general efficiency. In the opinion of some extreme Tories, indeed, the measure was a violation of the coronation oath and the stipulations of the Union with Ireland: it was an act of spoliation: its principles were revolutionary. But by men of more moderate views, its justice and necessity were generally recognized.[2]

One principle, however, involved in the scheme became the ground of painful controversy; and long interfered with the progress of other measures con-

Principle of appropriation.

[1] Lord Althorp's Speech, Feb. 12th, 1833; Hans. Deb., 3d Ser., xv. 561.

[2] Debate on second reading, May 6th; Hans. Deb., 3d Ser., xvii. 966.

ceived in the interests of the church. A considerable sum was expected to be derived from the grant of perpetual leases of church lands; and the question was naturally raised, how was it to be disposed of? Admitting the first claims of the church, — what was to become of any surplus, after satisfying the needs of the establishment? On one side, it was maintained that the property of the church was inalienable; and that nothing but its redistribution, for ecclesiastical purposes, could be suffered. On the other, it was contended that the church had no claim to the increased value given to her lands by an Act of Parliament; and that, in any case, the legislature was free to dispose of church revenues for the public benefit. The bill provided that the moneys accruing from the grant of these perpetuities should be applied, in the first instance, in redemption of charges upon parishes, for building churches; and any surplus, to such purposes as Parliament might hereafter direct.[1] Ministers, fearing that the recognition of this principle of appropriation, even in so vague a form, would endanger their measure in the House of Lords, abandoned it in committee, June 21st, 1833. — to the disgust of Mr. O'Connell and his followers, and of many members of the liberal party. Mr. O'Connell asked what benefit the Irish people could now hope to derive from the measure, beyond the remission of the church cess? The church establishment would indeed be reduced; but the people would not save a single shilling by the reduction.[2] In truth, however, the clause had not expressly declared that the revenues of the church were applicable to state purposes. Its retention would not have affirmed the principle: its omission did not surrender any rights which the legislature might, hereafter, think fit to exercise. Whenever the surplus should actually arise, Parliament might determine its appropriation. Yet both parties otherwise interpreted its significance; and it became the main question at

[1] Clause 147.

[2] Hans. Deb., 3d Ser., xviii. 1073; Ann. Reg., 1833, p. 104.

issue between the friends and opponents of the church, who each foresaw, in the recognition of an abstract principle, the ultimate alienation of the revenues of the Irish establishment. For the present, a concession being made to the fears of the church party, the bill was agreed to by both Houses.[1] But the conflict of parties, upon the controverted principle, was by no means averted.

Church in Ireland: Mr. Ward's motion, May 27th, 1834.

In the next session, Mr. Ward, in a speech of singular ability, called upon the House of Commons to affirm a resolution that the church establishment in Ireland exceeded the spiritual wants of the Protestant population; and that, it being the right of the state to regulate the distribution of church property, the temporal possessions of the church in Ireland ought to be reduced.[2] This resolution not only asserted the principle of appropriation, but disturbed the recent settlement of the ecclesiastical establishment in Ireland. It was fraught with political difficulties. The cabinet had already been divided upon the principles involved in this motion; and the discussion was interrupted for some days by the resignation of Mr. Stanley, Sir James Graham, the Duke of Richmond, and the Earl of Ripon. The embarrassment of ministers was increased by a personal declaration of the King against innovations in the church, in reply to an address of the Irish bishops and clergy.[3] The motion, however, was successfully met by the appointment of a commission to inquire into the revenues and duties of the church, and the general state of religious instruction in Ireland. Hitherto there had been no certain information either as to the revenues of the church, or the numbers of different religious communions in the country; and ministers argued that, until these facts had been ascertained, it could not with propriety be affirmed that the establishment

Superseded by appointment of a commission, June 2d. 1834.

[1] Church Temporalities (Ireland) Act, 3 & 4 Will. IV. c. 37.

[2] Hans. Deb., 3d Ser., xxiii. 1368.

[3] May 28th, 1834; Ann. Reg., 1834, 43.

was excessive. At the same time, the appointment of the commission implied that Parliament would be prepared to deal with any surplus which might be proved to exist after providing for the wants of the Protestant population. On these grounds the previous question was moved, and carried by a large majority.[1]

A few days afterwards, the propriety of issuing this commission, and the rights of the state over the distribution of church property, were warmly debated in the House of Lords. While one party foresaw spoliation as the necessary result of the proposed inquiry, and the other disclaimed any intentions hostile to the church, it was agreed on all sides that such an inquiry assumed a discretionary power in the state over the appropriation of church property.[2] Earl Grey boldly avowed that, if it should appear that there was a considerable excess of revenue beyond what was required for the efficiency of the church and the propagation of divine truth, "the state would have a right to deal with it with a view to the exigencies of the state and the general interests of the country."[3]

Lords debate on appropriation, June 6th, 1834.

Meanwhile, the difficulties of the question of Irish tithes were pressing. Ministers had introduced a bill, early in the session, for converting tithes into a land tax, payable to the government by the landlords, and subject to redemption. When redeemed, the proceeds were to be invested in land for the benefit of the church.[4] The merits of this measure were repeatedly discussed, and the scheme itself materially modified in its progress; but the question of appropriation bore a foremost place in the discussions. Mr. O'Connell viewed with alarm a plan securing to the church a perpetual vested interest in

Irish tithes associated with appropriation.

[1] For the motion, 120; for the previous question, 396. — Hans. Deb., 3d Ser., xxiv. 10.

[2] Hans. Deb., 3d Ser., xxiv. 243.

[3] *Ibid.*, 254.

[4] Mr. Littleton's Explanation, Feb. 20th, 1834. — Hans. Deb., 3d Ser., xxi. 572.

tithes, which could no longer be collected; and threatened the landlords with a resistance to rent, when it embraced a covert charge for the maintenance of the Protestant church.

June 23d, 1834. Having opposed the measure itself, on its own merits, he endeavored to pledge the House to a resolution, that any surplus of the funds to be raised in lieu of tithes, after providing for vested interests and the spiritual wants of the church, should be appropriated to objects of public utility.[1] Disclaiming any desire to appropriate these funds for Catholic or other religious uses, he proposed that they should be applied to purposes of charity and education. On the part of ministers, Lord Althorp and Lord John Russell again upheld the right of the state to review the distribution of church property, and apply any surplus according to its discretion. Nor did they withhold their opinion, that the proper appropriation would be to kindred purposes, connected with the moral and religious instruction of the people. But they successfully resisted the motion as an abstract proposition, prematurely offered.[2] Soon afterwards, Lord Grey's administration was suddenly dissolved; but the Tithe Bill was continued by Lord Melbourne. Many amendments, however, were made, — including one forced upon ministers by Mr. O'Connell, by which the tithe-payer was immediately relieved to the extent of forty per cent. After all these changes, the bill was rejected, on the second reading, by the House of Lords.[3] Again the clergy were left to collect their tithes, under increased difficulties and discouragement.

In the next session, Sir Robert Peel had succeeded to the embarrassments of Irish tithes and the appropriation question. As to the first, he offered a practical measure for the commutation of tithes into a rent-charge upon the land, with a deduction of twenty-

Sir Robert Peel's measure for commuting Irish tithes, 1835.

[1] Amendment on going into committee. — Hans. Deb., 3d Ser., xxiv. 734.

[2] It was negatived by a majority of 261. Ayes, 99; Noes, 360. — Hans Deb., 3d Ser., xxiv. 805.

[3] Aug. 11th, 1834. *Ibid.*, xxv. 1143.

five per cent. Provision was also made for its redemption, and the investment of the value in land for the benefit of the church. He further proposed to make up the arrears of tithes in 1834, out of the million already advanced to the clergy.[1] But the commutation of tithes was not yet destined to be treated as a practical measure. It had been associated, in the late session, with the controverted principle of appropriation, — which now became the rallying point of parties. It had severed from Lord Grey some of his ablest colleagues, and associated them with the opposite party.

Appropriation question adopted by the Whigs in opposition, 1835.

Sir Robert Peel, on accepting office, took an early opportunity of stating that he would not give his "consent to the alienation of church property, in any part of the United Kingdom, from strictly ecclesiastical purposes." On the other hand, in the first discussion upon Irish tithes, Lord John Russell expressed his doubts whether any advantage would result from the abolition of tithe, without a prior decision of the appropriation question; and Mr. O'Connell proclaimed that the word "appropriation would exert a magical influence in Ireland." The Whigs, exasperated by their sudden dismissal,[2] were burning to recover their ground; but the liberal measures of the new ministry afforded few assailable points. Sir Robert Peel, however, had taken his stand upon the inviolability of church property; and the assertion of the contrary doctrine served to unite the various sections of the opposition. The Whigs, indeed, were embarrassed by the fact that they had themselves deprecated the adoption of any resolution, until the commission had made its report; and this report was not yet forthcoming. But the exigencies of party demanded a prompt and decisive trial of strength. Lord John Russell, therefore, pressed forward with resolutions affirming that any surplus revenues of the church of Ireland, not required for the spiritual care of its members, should be

[1] Hans. Deb., 3d Ser., xxvi. 13.

[2] *Supra*, Vol. I., p. 125.

applied to the moral and religious education of all classes of the people; and that no measure on the subject of tithes would be satisfactory which did not embody that principle. These resolutions were affirmed by small majorities;[1] and Sir Robert Peel was driven from power.

Appropriation under Lord Melbourne.

It was an untoward victory. The Whigs had pledged themselves to connect the settlement of tithes with the appropriation of the surplus revenues of the church of Ireland. The Conservatives were determined to resist that principle; and having a large majority in the House of Lords, their resistance was not to be overcome

Revenues of the church of Ireland.

Meanwhile, the position of ministers was strengthened by the disclosure of the true state of the church. Out of a population of 7,943,940 persons, there were 852,064 members of the establishment; 6,427,712 Roman Catholics, 642,356 Presbyterians, and 21,808 Protestant dissenters of other denominations. The state church embraced little more than a tenth of the people.[2] Her revenues amounted to 865,525*l*. In 151 parishes there was not a single Protestant: in 194 there were less than ten: in 198 less than twenty; and in 860 parishes there were less than fifty.[3]

Appropriation abandoned, 1838.

These facts were dwelt upon in support of appropriation which formed part of every bill for the commutation of tithes. But the lords had taken their stand upon a principle; and were not to be shaken. Tithes were still withheld from the clergy; and

[1] On April 2d a committee of the whole House was obtained by a majority of 33. — Hans. Deb., 3d Ser., xxvii. 362, 770, &c. On April 6th, the first resolution was agreed to in committee by a majority of 25; and on the 7th. the second resolution was affirmed by the House on the report by a majority of 27. — Comm. Journ., xc. 202, 208; Hans. Deb., 3d Ser., xxvii. 790, 837, 878.

[2] 1st Report of Commissioners on Public Instruction, Ireland (1835), p. 7.

[3] Lord Morpeth's Speech, 1835; Hans. Deb., 3d Ser., xxxiii. 1139. The latter number comprises the parishes previously enumerated.

the feelings of the people were embittered by continual discussions relating to the church; while bill after bill was sacrificed to clauses of appropriation. This mischievous contest between the two Houses was brought to a close in 1838, by the abandonment of the appropriation clause by ministers themselves. It was, indeed, bitter and humiliating: but it was unavoidable. The settlement of tithes could no longer be deferred; and any concession from the Lords was hopeless. But the retirement of the Whigs from a position, which they had chosen as their own battle-field, was a grievous shock to their influence and reputation. They lost the confidence of many of their own party, forfeited public esteem, and yielded to the opposition an exultant triumph which went far to restore them to popular favor, and ultimately to power.[1]

But if ruin awaited the Whigs, salvation was at hand for the church of Ireland. Tithes were at length commuted into a permanent rent-charge upon the land; and the clergy amply indemnified for a sacrifice of one fourth the amount, by unaccustomed security and the peaceable enjoyment of their rights. They were further compensated for the loss of arrears, out of the balance of the million, advanced by Parliament as a loan in 1833, and eventually surrendered as a free gift.[2] The church had passed through a period of trials and danger; and was again at peace. The grosser abuses of her establishment were gradually corrected, under the supervision of the ecclesiastical commissioners: but its diminished revenues were devoted exclusively to the promotion of its spiritual efficiency.

Commutation of Irish tithes, 1838.

While the state protected the Protestant church, it had not been unmindful of the interests of the great body of the people, who derived no benefit from her ministrations. In 1831, a national system of education was established, embracing the children of per-

National education in Ireland.

[1] See especially Debates, May 14th and July 2d, 1838. Hans. Deb., 3d Ser., xlii. 1203; xliii. 1177.

[2] 1 & 2 Vict. c. 109.

sons of all religious denominations.[1] It spread and flourished, until, in 1860, 803,364 pupils received instruction, — of whom 663,145 were Catholics,[2] — at an annual cost to the state of 270,000*l.*[3]

Maynooth College, 1845.

In 1845, Sir Robert Peel adventured on a bold measure for promoting the education of Catholic priests in Ireland.[4] Prior to 1795, the laws forbade the endowment of any college or seminary for the education of Roman Catholics in Ireland; and young men in training for the priesthood were obliged to resort to colleges on the continent, and chiefly to France, to prepare themselves for holy orders. But the French revolutionary war having nearly closed Europe against them, the government were induced to found the Roman Catholic College of Maynooth.[5] It was a friendly concession to the Catholics; and promised well for the future loyalty of the priesthood. The college was supported by annual grants of the Parliament of Ireland, which were continued by the United Parliament, after the Union. The connection of the state with this college had been sanctioned in the days of Protestant ascendency in Ireland; and was continued without objection by George III., — the most Protestant of kings, — and by the most Protestant of his ministers, at a time when prejudices against the Catholics had been fomented to the utmost. But when more liberal sentiments prevailed concerning the civil rights of the Catholics, a considerable number of earnest men, both in the church and in other religious bodies, took exceptions to the endowment of an institution, by the state, for teaching the doctrines of the

[1] On Sept. 9th, 1831, 30,000*l.* were first voted for this purpose. — *Hans. Deb.*, 3d Ser., vi. 1249. Commissioners were appointed by the lord-lieutenant to administer the system in 1832, and incorporated by letters-patent in 1845.

[2] 28th Report of Commissioners, 1861, No. [3026], p. 10, 11, &c.

[3] The sum voted in 1860 was 270,722*l.*

[4] April 3d, 1845. Hans. Deb., lxxix. 18.

[5] Irish Act 35 Geo. III. c. 21; Cornwallis's Corr., iii. 365–375; Lord Stanhope's Life of Pitt, ii. 311.

church of Rome. "Let us extend to Catholics," they said, "the amplest toleration: let us give them every encouragement to found colleges for themselves: but let not a Protestant state promote errors and superstitions: ask not a Protestant people to contribute to an object abhorrent to their feelings and consciences." On these grounds the annual grant had been for some time opposed, while the college, — the unfortunate object of discussion, — was neglected and falling into decay. In these circumstances, Sir Robert Peel proposed to grant 30,000*l.* for buildings and improvements, to allow the trustees of the college to hold lands to the value of 3000*l.* a year, and to augment the endowment from less than 9000*l.* a year to 26,360*l.* To give permanence to this endowment, and to avoid irritating discussions, year after year, it was charged upon the Consolidated Fund.[1]

Having successfully defended the revenues of the Protestant church, he now met the claims of the Catholic clergy in a liberal and friendly spirit. The concession infringed no principle which the more niggardly votes of former years had not equally infringed; but it was designed at once to render the college worthy of the patronage of the state and to conciliate the Catholic body. He was supported by the first statesmen of all parties, and by large majorities in both Houses: but the virulence with which his conciliatory policy was assailed, and the doctrines of the church of Rome denounced, deprived a beneficent act of its grace and courtesy.

If the consciences of Protestants were outraged by contributing, however little, to the support of the Catholic faith, what must have been the feelings of Catholic Ireland towards a Protestant church, maintained for the use of a tenth of the people! It would have been well to avoid so painful a controversy: but it was raised; and the Act of 1845, so far from being accepted as the settlement of a vexed question appeared for several years to aggravate the bitterness of the

[1] April 3d, 1845. Hans. Deb., 3d Ser., lxxix. 18.

strife. But the state, superior to sectarian animosities, calmly acknowledged the claims of Catholic subjects upon its justice and liberality. Governing a vast empire, and ruling over men of different races and religions, it had already aided the propagation of doctrines which it disowned. In Ireland itself, the state has provided for the maintenance of Roman Catholic chaplains in prisons and workhouses. A different policy would have deprived the inmates of those establishments of all the offices and consolations of religion. It has provided for the religious instruction of Catholic soldiers; and since the reign of William III. the Presbyterians of Ireland have received aid from the state, known as the Regium Donum. In Canada, Malta, Gibraltar, the Mauritius and other possessions of the crown, the state has assisted Catholic worship. Its policy has been imperial and secular, — not religious.

State aid given to other religions.

In the same enlarged spirit of equity, Sir Robert Peel secured, in 1845, the foundation of three new colleges in Ireland, for the improvement of academical education, without religious distinctions. These liberal endowments were mainly designed for Catholics, as composing the great body of the people; but they who had readily availed themselves of the benefits of national education, — founded on the principle of a combined literary and separate religious instruction, — repudiated these new institutions. Being for the use of all religious denominations, the peculiar tenets of no particular sect could be allowed to form part of the ordinary course of instruction; but lecture-rooms were assigned for the purpose of religious teaching, according to the creed of every student.[1] The Catholics, however, withheld their confidence from a system in which their own faith was not recognized as predominant; and denounced the new colleges as "godless." The Roman Catholic Synod of Thurles prohibited the clergy of their commun-

Queen's colleges, Ireland, 1845.

[1] Hans. Deb., 3d Ser., lxxx. 345; 8 & 9 Vict. c. 66.

ion from being concerned in the administration of these establishments;[1] and their decrees were sanctioned by a rescript of the Pope.[2] The colleges were everywhere discountenanced as seminaries for the sons of Catholic parents. The liberal designs of Parliament were so far thwarted; yet, even under these discouragements, the colleges have enjoyed a fair measure of success. A steady increase of pupils of all denominations has been maintained;[3] the education is excellent; and the best friends of Ireland are still hopeful that a people of rare aptitude for learning will not be induced, by religious jealousies, to repudiate the means of intellectual cultivation, which the state has invited them to accept.

[1] August, 1850.

[2] May 23d, 1851.

[3] In 1858 the commissioners of inquiry reported: — "The colleges cannot be regarded otherwise than as successful." — *Report of Commissioners*, 1858, No. [2413]. In 1860, the entrances had increased from 168 to 309; and the numbers attending lectures, from 454 to 752. Of the latter number, 207 were members of the Established Church; 204, Roman Catholics; 247, Presbyterians; and 94 of other persuasions. — *Report of President* for 1860-61, 1862, No. [2999].

CHAPTER XV.

Local Government the Basis of Constitutional Freedom: — Vestries: — Municipal Corporations in England, Scotland, and Ireland: — Local Improvement and Police Acts: — Local Boards constituted under General Acts: — Courts of Quarter Sessions.

Local government the basis of constitutional freedom.

THAT Englishmen have been qualified for the enjoyment of political freedom, is mainly due to those ancient local institutions by which they have been trained to self-government. The affairs of the people have been administered, not in Parliament only, but in the vestry, the town-council, the board-meeting, and the Court of Quarter Sessions. England alone among the nations of the earth has maintained for centuries a constitutional polity; and her liberties may be ascribed, above all things, to her free local institutions. Since the days of their Saxon ancestors,[1] her sons have learned, at their own gates, the duties and responsibilities of citizens. Associating for the common good, they have become exercised in public affairs. Thousands of small communities have been separately trained to self-government: taxing themselves, through their representatives, for local objects: meeting for discussion and business; and animated by local rivalries and ambitions. The history of local government affords a striking parallel to the general political history of the country. While the aristocracy was encroaching upon popular power in the government of the state, it was making advances, no less sure, in local institutions. The few were gradually appropriating the franchises which were the birthright of the many; and again,

[1] Palgrave's English Commonwealth, i. 628; Allen's Prerog., 128.

as political liberties were enlarged, the rights of self-government were recovered.

Every parish is the image and reflection of the state. The land, the church, and the commonalty share in its government: the aristocratic and democratic elements are combined in its society. The common law, — in its grand simplicity, — recognized the right of all the rated parishioners to assemble in vestry, and administer parochial affairs.[1] But in many parishes this popular principle gradually fell into disuse; and a few inhabitants, — self-elected and irresponsible, — claimed the right of imposing taxes, administering the parochial funds, and exercising all local authority. This usurpation, long acquiesced in, grew into a custom, which the courts recognized as a legal exception from the common law. The people had forfeited their rights; and select vestries ruled in their behalf. So absolute was their power, that they could assemble without notice, and bind all the inhabitants of the parish by their vote.[2]

The parish. The vestry. The select vestry.

This single abuse was corrected by Mr. Sturges Bourne's Act in 1818:[3] but this same act, while it left select vestries otherwise unreformed, made a further inroad upon the popular constitution of open vestries. Hitherto every person entitled to attend had enjoyed an equal right of voting; but this act multiplied the votes of vestrymen, according to the value of their rated property: one man could give six votes: others no more than one.

Mr. Sturges Bourne's Act, 1818.

An important breach, however, was made in the exclusive system of local government, by Sir John Hobhouse's Vestry Act, passed during the agitation for parliamentary reform.[4] The majority of rate-

Sir John Hobhouse's Act, 1831.

[1] Shaw's Par. Law, c. 17; Steer's Par. Law, 253; Toulmin Smith's Parish, 2d ed., 15–23, 46–52, 288–330.

[2] Gibson's Codex, 219; Burn's Eccl. Law, iv. 10, &c.; Steer, 251.

[3] 58 Geo. III. c. 69, amended by 59 Geo. III. c. 85, 7 Will. IV., and 1 Vict. c. 35; Report on Poor Laws, 1818. — Hans. Deb., 1st Ser., xxxviii 573.

[4] 1 & 2 Will. IV. c. 60; Oct. 20th, 1831; Toulmin Smith's Parish, 240.

payers, in any parish within a city or town, or any other parish composing 800 householders rated to the poor, were empowered to adopt this act. Under its provisions, vestries were elected by every rated parishioner: the votes of the electors were taken by ballot: every ten pound householder, except in certain cases,[1] was eligible as a vestryman; and no member of the vestry was entitled to more than a single vote. This measure, however democratic in principle, did little more than revert to the policy of the common law. It was adopted in some populous parishes in the metropolis and elsewhere: but otherwise has had a limited operation.[2]

Municipal corporations, England.

The history of municipal corporations affords another example of encroachments upon popular rights. The government of towns, under the Saxons, was no less popular than the other local institutions of that race;[3] and the constitution of corporations, at a later period, was founded upon the same principles. All the settled inhabitants and traders of corporate towns, who contributed to the local taxes, had a voice in the management of their own municipal affairs.[4] The community, enjoying corporate rights and privileges, was continually enlarged by the admission of men connected with the town by birth, marriage, apprenticeship, or servitude, and of others, not so connected, by gift or purchase. For some centuries after the conquest, the burgesses assembled in person, for the transaction of business. They elected a mayor, or other chief mag-

[1] In the metropolis, or in any parish having more than 3000 inhabitants a 40*l.* qualification was required. In the metropolis, however, the act wa superseded by the metropolis local management act, 1855. — *Infra*, 477.

[2] In 1842, nine parishes only had adopted it. — Parl. Paper, 1842, No. 564.

[3] Palgrave's English Commonwealth, i. 629; Merewether and Stephens's Hist. of Boroughs, Introd. viii.; Kemble's Hist., ii. 262; Lappenberg's England, App.; Hallam's Middle Ages, ii. 153.

[4] Report of Commissioners on Municipal Corporations, 1835, p. 16; Merewether and Stephens's Hist., Introd., v. 1, 10, &c.; Hallam's Middle Ages, ii. 155.

istrate: but no governing body, or town council, to whom their authority was delegated. The burgesses only were known to the law. But as towns and trade increased, the more convenient practice of representation was introduced for municipal as well as for parliamentary government. The most wealthy and influential inhabitants being chosen gradually encroached upon the privileges of the inferior townsmen, assumed all municipal authority, and substituted self-election for the suffrages of burgesses and freemen. This encroachment upon popular rights was not submitted to without many struggles; but, at the close of the fifteenth century, it had been successfully accomplished in a large proportion of the corporations of England.

Until the reign of Henry VII., these encroachments had been local and spontaneous. The people had submitted to them; but the law had not enforced them. From this time, however, popular rights were set aside in a new form. The crown began to grant charters to boroughs, — generally conferring or reviving the privilege of returning members to Parliament; and most of these charters vested all the powers of municipal government in the mayor and town-council, — nominated in the first instance by the crown itself, and afterwards self-elected. Nor did the contempt of the Tudors for popular rights stop here. By many of their charters, the same governing body was intrusted with the exclusive right of returning members to Parliament. For national as well as local government, the burgesses were put beyond the pale of the constitution. And in order to bring municipalities under the direct influence of the crown and the nobility, the office of high steward was often created: when the nobleman holding that office became the patron of the borough, and returned its members to Parliament. The power of the crown and aristocracy was increased, at the expense of the liberties of the people. The same policy was pursued by the Stuarts; and the two last of that race violated the liberties of the few corporations

Charters from Henry VII. to the Revolution.

which still retained a popular constitution after the encroachments of centuries.[1]

Corporations from the Revolution to George III.

After the Revolution, corporations were free from the intrusion of prerogative; but the policy of municipal freedom was as little respected as in former times. A corporation had come to be regarded as a close governing body with peculiar privileges. The old model was followed; and the charters of George III. favored the municipal rights of burgesses no more than the charters of Elizabeth or James I.[2] Even where they did not expressly limit the local authority to a small body of persons, custom and usurpation restricted it either to the town council or to that body and its own nominees, the freemen. And while this close form of municipal government was maintained, towns were growing in wealth and population, whose inhabitants had no voice in the management of their own affairs. Two millions of people were denied the constitutional privilege of self-government.

Abuses of close corporations.

Self-elected and irresponsible corporations were suffered to enjoy a long dominion. Composed of local and often hereditary cliques and family connections, they were absolute masters over their own townsmen. Generally of one political party, they excluded men of different opinions, — whether in politics or religion, — and used all the influence of their office for maintaining the ascendency of their own party. Elected for life, it was not difficult to consolidate their interest; and they acted without any sense of responsibility.[3] Their proceedings were generally secret: nay, secrecy was sometimes enjoined by an oath.[4]

Despite their narrow constitution, there were some corpo-

1 Case of Quo Warranto, 1683; St. Tr., viii. 1039; Hume's Hist., vi 201; remodelling the corporations, 1687; Hallam's Const. Hist., ii. 238.

2 Report of Commissioners, p. 17.

3 *Ibid.*, p. 36.

4 *Ibid.*, 36.

rations which performed their functions worthily. Maintaining a mediæval dignity and splendor, their rule was graced by public virtue, courtesy, and refinement. Nobles shared their councils and festivities: the first men of the country were associated with townsmen; and while ruling without responsibility, they retained the willing allegiance of the people, by traditions of public service, by acts of munificence and charity, and by the respect due to their eminent station. But the greater number of corporations were of a lower type. Neglecting their proper functions, — the superintendence of the police, the management of the jails, the paving and lighting of the streets, and the supply of water, — they thought only of the personal interests attached to office. They grasped all patronage, lay and ecclesiastical, for their relatives, friends, and political partisans; and wasted the corporate funds in greasy feasts and vulgar revelry.[1] Many were absolutely insolvent. Charities were despoiled, and public trusts neglected and misapplied; jobbery and corruption in every form were fostered.[2] Townsmen viewed with distrust the proceedings of councils, over whom they had no control, whose constitution was oligarchical, and whose political sentiments were often obnoxious to the majority. In some towns the middle classes found themselves ruled by a close council alone: in others by the council and a rabble of freemen, — its creatures, — drawn mainly from the lower classes and having no title to represent the general interests of the community. And important municipal powers were therefore intrusted, under Local Acts, to independent commissioners, in whom the inhabitants had confidence.[3] Even the administration of justice was tainted by suspicions of political partiality.[4] Borough magistrates were at once incompetent and exclusively of one party; and juries were composed of freemen, of the same close connection. This

[1] Rep. of Comm., p. 46.
[2] *Ibid.*, 31, 46, 47, 48.
[3] *Ibid.*, 43.
[4] *Ibid.*, 26–29, 39

favored class also enjoyed trading privileges, which provoked jealousy and fettered commerce.[1]

Monopoly of electoral rights.

But the worst abuse of these corrupt bodies was that which too long secured their impunity. They were the strongholds of parliamentary interest and corruption. The electoral privileges which they had usurped, or had acquired by charter, were convenient instruments in the hands of both the political parties, who were contending for power. In many of the corporate towns the representation was as much at the disposal of particular families, as that of nomination boroughs: in others it was purchased by opulent partisans, whom both parties welcomed to their ranks. In others, again, where freemen enjoyed the franchise, it was secured by bribery, in which the corporations too often became the most active agents, — not scrupling even to apply their trust funds to the corruption of electors.[2] The freemen were generally needy and corrupt, and inferior, as well in numbers as in respectability, to the other inhabitants:[3] but they often had an exclusive right to the franchise; and whenever a general election was anticipated, large additions were made to their numbers.[4] The freedom of a city was valued according to the length of the candidate's purse. Corporations were safe so long as society was content to tolerate the notorious abuses of parliamentary representation. The municipal and parliamentary organizations were inseparable: both were the instruments by which the crown, the aristocracy, and political parties had dispossessed the people of their constitutional rights; and they stood and fell together.

The Municipal Corporations Bill, 1835.

The Reform Act wrested from the corporations their exclusive electoral privileges, and restored them to the people. This tardy act of retribution was followed by the appointment of a commission of

[1] Rep. of Comm., p. 40. [2] *Ibid.*, 45. [3] *Ibid.*, 33
[4] *Ibid.*, 34, 35. (See table of freemen created.)

inquiry, which roughly exposed the manifold abuses of irresponsible power, wherever it had been suffered to prevail. And in 1835, Parliament was called upon to overthrow these municipal oligarchies. The measure was fitly introduced by Lord John Russell, who had been foremost in the cause of parliamentary reform.[1] It proposed to vest the municipal franchise in rated inhabitants, who had paid poor-rates within the borough for three years. By them the governing body, consisting of a mayor and common council, were to be elected. The ancient order of aldermen was to be no longer maintained. The pecuniary rights of existing freemen were preserved, during their lives; but their municipal franchise was superseded; and as no new freemen were to be created, the class would be eventually extinguished. Exclusive rights of trading were to be discontinued. To the councils, constituted so as to secure public confidence, more extended powers were intrusted, for the police and local government of the town, and the administration of justice; while provision was made for the publicity of their proceedings, the proper administration of their funds, and the publication and audit of their accounts.

Amended by the Lords.

No effective opposition could be offered to the general principles of this measure. The propriety of restoring the rights of self-government to the people, and sweeping away the corruptions of ages, was generally admitted; but strenuous efforts were made to give further protection to existing rights, and to modify the popular character of the measure. These efforts, ineffectual in the Commons, were successful in the Lords. Counsel were heard, and witnesses examined, on behalf of several of the corporations; but the main principles of the bill were not contested. Important amendments, however, were inserted. The pecuniary rights and parliamentary franchise of freemen received more ample protection. With a view to qualify the democratic constitution of the councils, a

[1] June 5th, 1835. — Hans. Deb., 3d Ser., xxviii. 541.

property qualification was required for town councillors; and aldermen were introduced into the council, to be elected for life; the first aldermen being chosen from the existing body of aldermen.[1] These amendments were considered by ministers and the Commons, in a spirit of concession and compromise. The more zealous advocates of popular rights urged their unconditional rejection, even at the sacrifice of the bill; but more temperate counsels prevailed, and the amendments were accepted with modifications. A qualification for councillors was agreed to, but in a less invidious form: aldermen were to be elected for six years, instead of for life; and the exclusive eligibility of existing aldermen was not insisted on.[2] And thus was passed a popular measure, second in importance to the Reform Act alone.[3] The municipal bodies which it created, if less popular than under the original scheme, were yet founded upon a wide basis of representation, which has since been further extended.[4] Local self-government was effectually restored. Elected rulers have since generally secured the confidence of their constituents: municipal office has become an object of honorable ambition to public-spirited townsmen; and local administration, — if not free from abuses,[5] — has been exercised under responsibility and popular control. And further, the enjoyment of municipal franchises has encouraged and kept alive a spirit of political freedom in the inhabitants of towns.

Corporation of London.

One ancient institution alone was omitted from this general measure of reform, — the corporation of the City of London. It was a municipal principality, — of great antiquity, of wide jurisdiction, of ample property and revenues, and of composite organization. Distinguished for

1 Hans. Deb., 3d Ser., xxx. 426, 480, 579, &c.

2 *Ibid.*, 1132, 1194, 1335.

3 5 & 6 Will. IV. c. 76.

4 Municipal Corporations Act, 1859, 22 Vict. c. 35.

5 See Reports of Lords' Committees on Rates and Municipal Franchise, 1859, and Elective Franchise, 1860.

its public spirit, its independent influence had often been the bulwark of popular rights. Its magistrates had braved the resentment of kings and parliaments: its citizens had been foremost in the cause of civil and religious liberty. Its traditions were associated with the history and glories of England. Its civic potentates had entertained, with princely splendor, kings, conquerors, ambassadors, and statesmen. Its wealth and stateliness, its noble old Guildhall and antique pageantry, were famous throughout Europe. It united, like an ancient monarchy, the memories of a past age with the pride and power of a living institution.

Such a corporation as this could not be lightly touched. The constitution of its governing body: its powerful companies, or guilds: its courts of civil and criminal jurisdiction: its varied municipal functions: its peculiar customs: its extended powers of local taxation; — all these demanded careful inquiry and consideration. It was not until 1837 that the commissioners were able to prepare their report; and it was long before any scheme for the reconstitution of the municipality was proposed. However superior to the close corporations which Parliament had recently condemned, many defects and abuses needed correction. Some of these the corporation itself proceeded to correct; and others it sought to remedy, in 1852, by means of a private bill. In 1853, another commission of eminent men was appointed, whose able report formed the basis of a government measure in 1856.[1] This bill, however, was not proceeded with; nor have later measures, for the same purpose, hitherto been accepted by Parliament.[2] Yet it cannot be doubted that this great institution will be eventually brought into harmony with the recognized principles of free municipal government.

Efforts to reform it.

The history of municipal corporations in Scotland re-

[1] Sir George Grey, April 1st, 1856. — Hans. Deb., 3d Ser., cxli. 314.

[2] Sir George Grey, 1858. — Hans. Deb., 3d Ser., cxlviii. 738; Sir George Lewis, 1859 and 1860. *Ibid.*, cliv. 946; clvi. 282.

sembles that of England, in its leading characteristics. The royal burghs, being the property of the crown, were the first to receive corporate privileges. The earlier burgesses were tenants of the crown, with whom were afterwards associated the trades or crafts of the place, which comprised the main body of inhabitants. In the fourteenth century, the constitution of these municipalities appears to have become popular; and the growing influence and activity of the commonalty excited the jealousy of more powerful interests.[1] The latter, without waiting for the tedious expedient of usurpation, obtained an Act of the Scottish Parliament in 1469, which deprived the burgesses of their electoral rights, and established a close principle of self-election. The old council of every burgh was to choose the new council for the year; and the two councils together, with one person representing each craft, were to elect the burgh officers.[2]

Corporations in Scotland.

Royal burghs.

Municipal privileges were also granted to other burghs, under the patronage of territorial nobles or the church. The rights of burgesses varied in different places; but they were generally dependent upon their patrons.

Other burghs.

Neither of these two classes of municipalities had enjoyed for centuries the least pretence of a popular constitution. Their property and revenues, their rights of local taxation, their patronage, their judicature, and the election of representatives in Parliament, were all vested in small self-elected bodies. The administration of these important trusts was characterized by the same abuses as those of English corporations. The property was corruptly alienated and despoiled: sold to nobles and other favored persons, — sometimes even to the provost himself, — at inadequate prices: leased at nominal rents to members of the council; and improvidently charged

Close character of these municipalities.

[1] Report of Commrs., 1835, p. 18.

[2] Scots Acts, 1469, c. 5.

with debts.[1] The revenues were wasted by extravagant salaries, jobbing contracts, public works executed at an exorbitant cost, and civic entertainments.[2] By such maladministration several burghs were reduced to insolvency.[3] Charitable funds were wasted and misapplied:[4] the patronage, distributed among the ruling families, was grossly abused. Incompetent persons, and even boys, were appointed to offices of trust. At Forfar, an idiot performed for twenty years the responsible duties of town clerk. Lucrative offices were sold by the councils.[5] Judicature was exercised without fitness or responsibility. The representation formed part of the narrow parliamentary organization by which Scotland, like her sister-kingdoms, was then governed.

Many of these abuses were notorious at an early period; and the Scottish Parliament frequently interposed to restrain them.[6] They continued, however, to flourish; and were exposed by parliamentary inquiries in 1793, and again in 1819, and the two following years.[7] The latter were followed by an Act in 1822, regulating the accounts and administration of the royal burghs, checking the expenditure, and restraining abuses in the sale and leasing of property and the contracting of debts.[8] But it was reserved for the first reformed Parliament to deal with the greatest evil, and the first cause of all other abuses, — the close constitution of these burghs. The Scotch Reform Act had already swept away the electoral monopoly which had placed the entire representation of the country in the hands of the government and a few individuals; and in the following year, the ten-pound fran-

Municipal reform, Scotland, 1833.

[1] Rep., 1835, p. 30.
[2] Rep., 1821, p. 14; *Ibid.*, 1835, p. 34.
[3] Rep., 1819, p. 15, 23; *Ibid.*, 1835, p. 36.
[4] Rep., 1819, p. 23; *Ibid.*, 1835, p. 38.
[5] Rep., 1820, p. 4; *Ibid.*, 1835, p. 67.
[6] Scots Acts, 1491, c. 19; 1503, c. 36, 37; 1535, c. 35; 1593, c. 39 1693, c. 45; Rep. of 1835, p. 22–28.
[7] Rep. of Comm. Committees, 1819, 1820. and 1821.
[8] 3 Geo. IV. c. 91.

chise was introduced as the basis of new municipal constitutions. The system of self-election was overthrown, and popular government restored. The people of Scotland were impatient for this remedial measure; and, the abuses of the old corporate bodies being notorious, Parliament did not even wait for the reports of commissioners appointed to inquire into them, but proceeded at once to provide a remedy. The old fabric of municipal administration fell without resistance, and almost in silence: its only defence being found in the protest of a solitary peer.[1]

Corporations, Ireland.

In the corporations of Ireland, popular rights had been recognized, at least in form, — though the peculiar condition of that country had never been favorable to their exercise. Even the charters of James I., designed to narrow the foundations of corporate authority, usually incorporated the inhabitants, or commonalty of boroughs.[2] The ruling bodies, however, having the power of admitting freemen, whether resident or not, readily appropriated all the power and patronage of local administration. In the greater number of boroughs, the council, or other ruling body, was practically self-elected. The freemen either had no rights, or were debarred, by usurpation, from asserting them. In other boroughs, where the rights of freemen were acknowledged, the council were able to overrule the inhabitants by the voices of nonresident freemen, — their own nominees and creatures. Close self-election, and irresponsible power, were the basis of nearly all the corporations of Ireland.[3] In many boroughs, patrons filled the council with their own dependents, and exercised uncontrolled authority over the property, revenues, and government of the municipality.

Their abuses.

It were tedious to recount the more vulgar abuses of this system. Corporate estates appropriated, or irreg-

1 Hans. Deb., 3d Ser., xx. 563–576; 3 & 4 Will. IV. c. 76, 77.

2 Rep. of Commrs., 1835, p. 7.

3 *Ibid.*, p. 13–18.

ularly acquired, by patrons and others in authority: leases corruptly granted: debts recklessly contracted: exclusive tolls levied, to the injury of trade and the oppression of the poor: exclusive trading privileges enjoyed by freemen, to the detriment of other inhabitants: the monopoly of patronage by a few families: the sacrifice of the general welfare of the community to the particular interests of individuals; — such were the natural results of close government in Ireland, as elsewhere.[1] The proper duties of local government were neglected or abused; and the inhabitants of the principal towns were obliged to seek more efficient powers for paving, lighting, and police, under separate boards constituted by local Acts or by a general measure of 1828, enacted for that purpose.[2] But there were constitutional evils greater than these. Corporate towns returned members to Parliament; and the patrons, usurping the franchises of the people, reduced them to nomination boroughs. But, above all, Catholics were everywhere excluded from the privileges of municipal government. The remedial law of 1793, which restored their rights,[3] was illusory. Not only were they still denied a voice in the council, but even admission to the freedom of their own birthplaces. A narrow and exclusive interest prevailed, — in politics, in local administration, and in trade, — over Catholic communities, however numerous and important.[4] Catholics could have no confidence either in the management of municipal trusts or in the administration of justice. Among their own townsmen their faith had made them outlaws.

Exclusion of Catholics.

The Reform Act established a new elective franchise on a wider basis; and the legislature soon afterwards addressed itself to the consideration of the evils of municipal misgovernment. But the Irish

Irish Corporations Bills.

[1] Rep. of Commrs. p. 17–38.
[2] 9 Geo. IV. c. 82; Rep. of Commrs., p. 21.
[3] 33 Geo. III. c. 21 (Irish). *Supra*, p. 331.
[4] Rep. of Commrs., p. 16.

corporations were not destined to fall, like the Scotch burghs, without a struggle.

Corporations (Ireland) Bill, 1835.

In 1835, Lord Melbourne's government introduced a bill for the reconstitution of the Irish corporations, upon the same principles as those already applied to other parts of the United Kingdom. It was passed by the Commons without much discussion; but was not proceeded with in the Lords, on account of the late period of the session.[1] In the following year it was renewed, with some modifications;[2] when it encountered new obstacles. The Protestant party in Ireland were suffering under grave discouragements. Catholic emancipation and parliamentary reform had overthrown their dominion: their church was impoverished by the refusal of tithes, and threatened with an appropriation of her revenues; and now their ancient citadels, the corporations, were invested. Here they determined to take their stand. Their leaders, however, unable openly to raise this issue, combated the measure on other grounds. Adverting to the peculiar condition of Ireland, they claimed an exceptional form of local government. Hitherto, it was said, all local jurisdiction had been exercised by one exclusive party. Popular election would place it in the hands of another party, no less dominant. If the former system had caused distrust in local government and in the administration of justice, the proposed system would cause equal jealousy on the other side. Catholic ascendency would now be the rule of municipal government. Nor was there a middle class in Ireland equal to the functions proposed to be intrusted to them. The wealth and intelligence of Protestants would be overborne and outnumbered by an inferior class of Catholic townsmen. It was denied that boroughs had ever enjoyed a popular franchise. The corporations prior to James I. had been founded as outworks of English authority, among a

Renewed in 1836.

[1] Hans. Deb., 3d Ser., xxx. 230, 614, &c.

[2] *Ibid.*, xxxi. 496, 1019.

hostile people; and after that period, as citadels of Protestant ascendency. It was further urged that few of the Irish boroughs required a municipal organization. On these grounds Sir Robert Peel and the opposition proposed a fundamental change in the ministerial scheme. They consented to the abolition of the old corporations; but declined to establish new municipal bodies in their place. They proposed to provide for the local administration of justice by sheriffs and magistrates appointed by the crown: to vest all corporate property in royal commissioners, for distribution for municipal purposes; and to intrust the police and local government of towns to boards elected under the General Lighting and Watching Act of 1828.[1]

The Commons would not listen to proposals for denying municipal government to Ireland and vesting local authority in officers appointed by the crown, but the Lords eagerly accepted them; and the bill was lost.[2]

In the following year, a similar measure was again passed by the Commons, but miscarried in the other House by reason of delays and the king's death. In 1838, the situation of parties and the determined resistance of the Lords to the Irish policy of the government, brought about concessions and compromise. Ministers, by abandoning the principle of appropriation, in regard to the Irish Church revenues, at length attained a settlement of the tithe question; and it was understood that the Lords would accept a corporation bill. Yet in this and the following years the two Houses disagreed upon the municipal franchise and other provisions; and again the ministerial measures were abandoned. In 1840, a sixth bill was introduced, in which large concessions were made to the Lords.[3] Further amendments, however, were introduced by their lordships, which ministers and the

Bill of 1837.

Bill of 1838-39.

Bill of 1840.

[1] Debates on second reading, Feb. 29th, and on Lord F. Egerton's instruction, March 7th. — Hans. Deb., 3d Ser., xxxi. 1050, 1308.

[2] Hans. Deb., 3d Ser., xxxiv. 963, &c.

[3] *Ibid.*, li. 641; liii. 1160; lv. 183, 1216.

Commons were constrained to accept. The tedious controversy of six years was at length closed; but the measure virtually amounted to a scheme of municipal disfranchisement.

The Irish Corporations Act, 1840.

Ten corporations only were reconstituted by the bill, with a ten-pound franchise. Fifty-eight were abolished;[1] but any borough with a population exceeding 3000 might obtain a charter of incorporation. The local affairs and property of boroughs deprived of corporations were to be under the management of commissioners elected according to the provisions of the General Lighting and Watching Act, or of the poor-law guardians.[2] The measure was a compromise; and, however imperfect as a general scheme of local government, it at least corrected the evils of the old system, and closed an irritating contest between two powerful parties.

Local Improvement and Police Acts.

The reconstitution of municipal corporations upon a popular basis has widely extended the principle of local self-government. The same principle has been applied, without reserve, to the management of other local affairs. Most of the principal towns of the United Kingdom have obtained local Acts, at different times, for improvements, — for lighting, paving, and police, — for waterworks, — for docks and harbors; and in these measures, the principle of elected and responsible boards has been accepted as the rule of local administration. The functions exercised under these Acts are of vast importance, not only to the localities immediately concerned, but to the general welfare of the community. The local administration of Liverpool resembles that of a maritime state. In the order and wise government of large populations by local authority, rests the general security of the realm. And this authority is everywhere based upon representation and responsibility. In other words, the people who dwell in towns have been permitted to govern themselves.

[1] Schedules B and C of Act.

[2] 3 & 4 Vict. c. 108.

Extensive powers of administration have also been intrusted to local boards constituted under general statutes for the sanitary regulation, improvement, and police of towns and populous districts.[1] Again, the same principle was adopted in the election of boards of guardians for the administration of the new poor-laws, throughout the United Kingdom. And lastly, in 1855, the local affairs of the metropolis were intrusted to the Metropolitan Board of Works, — a free municipal assembly, elected by a popular constituency, and exercising extended powers of taxation and local management.[2]

Local boards constituted under general Acts

The sole local administration, indeed, which has still been left without representation, is that of counties; where rates are levied and expenditure sanctioned by magistrates appointed by the crown. Selected from the nobles and gentry of the county for their position, influence, and character, the magistracy undoubtedly afford a virtual representation of its interests. The foremost men assemble and discuss the affairs in which they have themselves the greatest concern; but the principles of election and responsibility are wanting. This peculiarity was noticed in 1836 by the commission on county rates;[3] and efforts have since been made, first by Mr. Hume,[4] and afterwards by Mr. Milner Gibson,[5] to introduce responsibility into county administration. It was proposed to establish financial boards, constituted of members elected by boards of guardians, and

Courts of Quarter Sessions.

[1] Public Health Act, 1848; Local Government Act, 1858; Toulmin Smith's Local Government Act, 1858; Glen's Law of Public Health and Local Government; Police (Scotland) Acts, 1850; Towns' Improvement (Scotland) Act, 1860; Police and Improvement (Scotland) Act, 1862, consolidating previous Acts.

[2] Metropolis Local Management Acts, 1855, 1862. Toulmin Smith's Metropolis Local Management Act.

[3] The Commissioners said: — "No other tax of such magnitude is laid upon the subject, except by his representatives." . . . . "The administration of this fund is the exercise of an irresponsible power intrusted to a fluctuating body."

[4] In 1837 and 1839. — Hans. Deb., 3d Ser., cvi. 125.

[5] In 1840, and subsequently. — *Ibid.*, cviii. 738.

of magistrates chosen by themselves. To the representative principle itself few objections were offered; but no scheme for carrying it into effect has yet found favor with the legislature.

Distinctive character of counties and towns.

Counties represent the aristocratic, — towns the democratic principles of our constitution. In counties, territorial power, ancestral honors, family connections, and local traditions have dominion. The lords of the soil still enjoy influence and respect, little less than feudal. Whatever forms of administration may be established, their ascendency is secure. Their power is founded upon the broad basis of English society; not upon laws or local institutions. In towns, power is founded upon numbers and association. The middle classes, — descendants and representatives of the stout burghers of olden times, — have sway. The wealth, abilities, and public virtues of eminent citizens may clothe them with influence; but they derive authority from the free suffrages of their fellow-citizens, among whom they dwell. The social differences of counties and towns have naturally affected the conditions of their local administration and political tendencies; but both have contributed, in different ways, to the good government of the state.

CHAPTER XVI.

Government of Ireland before the Union: — The Legislature and the Executive: — Protestant Ascendency: — Ireland a Dependency: — Commercial Restrictions: — The Volunteers: — Legislative and Judicial Independence granted 1782: — The United Irishmen and other Associations: — The Rebellion of 1798: — The Union: — Its Benefits Deferred: — Freedom and Equality finally assured.

We have seen liberty steadily advancing, in every form, and under every aspect, throughout our political and religious institutions. And nowhere has its advance been more conspicuous than in Ireland. Progress of liberty in Ireland.

In that country, the English laws and constitution had been established as if in mockery.[1] For ages its people were ruled, by a conquering and privileged race, as aliens and outlaws.[2] Their lands were wrested from them: their rights trampled under foot: their blood and their religion proscribed.[3]

Before George III. commenced his reign, the dawn of better days was brightening the horizon; yet, what was then the political condition of his Irish subjects? They were governed by a Parliament, whence every Catholic was excluded. The House of Lords was composed of prelates of the Protestant church, and of nobles of the same faith, — owners of boroughs, patrons of corporations, masters of the representation, and in close alliance with the castle.[4] The House Government of Ireland before the Union. The Lords

[1] Leland, Hist., i. 80, &c.; Plowden's Hist., i. 33.

[2] Davis, 100, 109.

[3] For the earlier history of Ireland see Plowden, i. 1–332; Leland, Prelim. Discourse; O'Halloran; Moore; and a succinct but comprehensive outline by Hallam, Const. Hist., c. xviii.

[4] Hardy's Life of Lord Charlemont, i. 102.

of Commons assumed to represent the country; but the elective franchise, — narrow and illusory in other respects, — was wholly denied to five sixths of the people,[1] on account of their religion.[2] Every vice of the English representative system was exaggerated in Ireland. Nomination boroughs had been more freely created by the crown:[3] in towns, the members were returned by patrons or close corporations: in counties, by great proprietors. In an assembly of 300, twenty-five lords of the soil alone returned no less than 116 members.[4] A comparatively small number of patrons returned a majority; and, acting in concert, were able to dictate their own terms to the government. So well were their influence and tactics recognized, that they were known as the "parliamentary undertakers."[5] Theirs was not an ambition to be satisfied with political power and ascendency: they claimed more tangible rewards, — titles, offices, pensions, — for themselves, their relatives and dependents. Self-interest and corruption were all but universal, in the entire scheme of parliamentary government. Two thirds of the House of Commons, on whom the government generally relied, were attached to its interest by offices, pensions, or promises of preferment.[6] Patrons and nominees alike exacted favors; and, in five-and-twenty years, the Irish pension-list was trebled.[7] Places and pensions, the price of parliamentary services, were publicly

The Commons.

[1] Primate Boulter admitted that there were five Catholics to one Protestant in the reign of Geo. II. — Plowden's Hist., i. 269, 271; Grattan's Life, i. 64.

[2] 2 Geo. I. c. 19; 1 Geo. II. c. 9, s. 7.

[3] Leland, ii. 437; Plowden's Hist., i. 109; App., xv. xvi.; Carte's Ormond, i. 18; Lord Mountmorres' Hist. of the Irish Parliament, i. 166, &c.: Desiderata Curiosa Hibernica, 308; Moore's Hist., iv. 164.

[4] Massey's (on the authority of the Bolton MSS.) Hist., iii. 264. See also Wakefield's Statistical and Political Account of Ireland, ii. 301.

[5] Wilkinson's Survey of South of Ireland, 57; Adolphus' Hist., i. 161.

[6] Plowden's Hist., i. 360, 375. See also analysis of the ministerial majority in 1784, in the Bolton MSS., Massey's Hist., iii. 265.

[7] Plowden's Hist., i. 451; *supra*, Vol. I. 212.

bought and sold in the market.[1] But these rewards, however lavishly bestowed, failed to satisfy the more needy and prodigal, whose fidelity was purchased from time to time with hard cash.[2] Parliamentary corruption was a recognized instrument of government: no one was ashamed of it. Even the speaker, whose office should have raised him above the low intrigues and sordid interests of faction, was mainly relied upon for the management of the House of Commons. And this corrupt and servile assembly, once intrusted with power, might continue to abuse it for an indefinite period. If not subservient to the crown, it was dissolved; but, however neglectful of the rights and interests of the people, it was firmly installed as their master. The law made no provision for its expiration, save on the demise of the crown itself.

Parliament expired only on demise of crown.

Such being the legislature, to whom the rights of the people were intrusted, the executive power was necessarily in the hands of those who corruptly wielded its authority. The lord-lieutenant, selected from English nobles of the highest rank, was generally superior to the petty objects of local politicians; but he was in the hands of a cabinet consisting of men of the dominant faction, intent upon continuing their own power, and ministering to the ambition and insatiable greed of their own families and adherents. Surrounded by intrigues and troubles, he escaped as much as possible from the intolerable thraldom of a residence in Ireland; and, in his absence, these men governed the country absolutely, as lords justices. Contending among themselves for influence and patronage, they agreed in maintaining the domination of a narrow oligarchy and the settled policy of Protestant ascendency.[4] As if to

The executive.

[1] Plowden's Hist., i. 364, 378.

[2] *Ibid.*, 374; Irish Debates, i. 139; Grattan's Life, i. 97.

[3] Hardy's Life of Lord Charlemont, i. 88.

[4] Plowden's Hist., i. 370; Adolphus' Hist., 159–161; Grattan's Life, i. 97.

mark the principles of such a rule, the primate bore the foremost place in the administration of affairs.[1]

Monopoly of power and office.

The proscription of Catholics at once insured the power and ministered to the cupidity of the ruling party. Every judge, every magistrate, every officer, — civil, military and corporate, — was a churchman. No Catholic could practise the law,[2] or serve upon a jury. The administration of justice, as well as political power, was monopolized by Protestants. A small junto distributed among their select band of followers all the honors and patronage of the state. Every road to ambition was closed against Catholics, — the bar, the bench, the army, the senate, and the magistracy. And Protestant nonconformists, scarcely inferior in numbers to churchmen, fared little better than Catholics. They were, indeed, admitted to a place in the legislature, but they were excluded, by a test Act, from every civil office, from the army, and from corporations; and, even where the law failed to disqualify them, they might look in vain for promotion to a clique who discerned merit in none but churchmen. Such were the rights and liberties of the Irish people; and such the character and policy of their rulers.

Subordination of Ireland to the English government.

And while the internal polity of Ireland was exclusive, illiberal, and corrupt; the country, in its relations to England, still bore the marks of a conquered province. The Parliament was not a free legislature, with ample jurisdiction in making laws and voting taxes. By one of "Poyning's Acts,"[3] in the reign of Henry VII., the Irish Parliament was not summoned until the Acts it was called upon to pass had already been approved and certified, under the great seal, in England. Such Acts it might discuss and reject, but could not amend. This restric-

[1] On the accession of Geo. III., the lords justices were the primate, Dr. Stone, Lord Shannon, a former speaker, and Mr. Ponsonby, then holding the office of speaker.

[2] Plowden's Hist., i. 271.

[3] 10 Henry VII. c. 4 (Irish).

tion, however, was afterwards relaxed; and laws were certified, in the same manner, after the opening of Parliament.[1] Parliament could say "aye" or "no" to the edicts of the crown; but could originate nothing itself. Even money bills were transmitted to the Commons in the same imperial form. Soon after the revolution, the Commons had vainly contended for the privilege of originating grants to the crown, like their English prototypes; but their presumption was rebuked by the chief governor, and the claim pronounced unfounded by the judges of both countries.[2] The rejection of a money bill was also visited with rebuke and protest.[3]

The Irish Parliament, however, released itself from this close thraldom by a procedure more consonant with English usage, and less openly obnoxious to their independence. Heads of bills were prepared by either House, and submitted to the Privy Council in Ireland, by whom they were transmitted to the king, or withheld at their pleasure. If approved by His Majesty, with or without amendments, they were returned to the House in which they had been proposed, where they were read three times, but could not be amended.[4] The crown, however, relinquished no part of its prerogative; and money bills continued to be transmitted from the Privy Council, and were accepted by the Commons.[5]

These restrictions were marks of the dependence of the legislature upon the crown: other laws and customs proclaimed its subordination to the Parliament of England. That imperial senate asserted and exercised the right of passing laws "to bind the people and ingdom of Ireland;" and in the sixth of George I. passed n Act explicitly affirming this right, in derogation of the

Supremacy of the Parliament of England.

[1] 3 & 4 Philip and Mary, c. 4 (Irish); Lord Mountmorres' Hist. of Irish Parl., i. 48–50; Blackstone's Comm. (Kerr), 1, 84.

[2] Lord Mountmorres' Hist., i. 47; ii. 142, 184.

[3] In 1692. — Comm. Journ. (Ireland), ii. 35; Lord Mountmorres' Hist., i. 54; Hardy's Life of Lord Charlemont, i. 246.

[4] Lord Mountmorres' Hist., i. 58, 63; Plowden's Hist., i. 395, *n.*

[5] In 1760 a Bill was so transmitted and passed. — Grattan's Life i. 57

legislative authority of the national council sitting in Dublin.[1] Its judicature was equally overborne. The appellate jurisdiction of the Irish House of Lords was first adjudged to be subordinate to that of the highest court of appeal in England, and then expressly superseded and annulled by a statute of the English Parliament.[2] The legislature of Ireland was that of a British dependency. Whether such a Parliament were free or not, may have little concerned the true interests of the people of Ireland, who owed it nothing but bondage; but the national pride was stung by a sense of inferiority and dependence.

Commercial restrictions.

The subordination of Ireland was further testified in another form, at once galling to her pride and injurious to her prosperity. To satisfy the jealous instincts of English traders, her commerce had been crippled with intolerable prohibitions and restraints. The export of her produce and manufactures to England was nearly interdicted: all direct trade with foreign countries and British possessions prohibited. Every device of protective and prohibitory duties had been resorted to, for insuring a monopoly to English commerce and manufactures. Ireland was impoverished, that English traders should be enriched.[3]

New era opened under George III.

Such were the laws and government of Ireland when George III. succeeded to its crown, and for many years afterwards. Already a "patriot" party had arisen to expose the wrongs of their country, and advocate her claims to equality; but hitherto their efforts had been vain. A new era, however, was now about to open;

[1] 10 Henry VII. c. 22 (Irish); Carte's Life of Ormond, iii. 55; Lord Mountmorres' Hist., i. 360; Comm. Journ. (England), June 27th and 30th, 1698; Parl. Hist., v. 1181; Plowden's Hist., i. 244; Statute 6 Geo. I. c. 5.

[2] 6 Geo. I. c. 5. — Parl. Hist., vii. 642; Lord Mountmorres' Hist., i. 339.

[3] 32 Charles II. c. 2, prohibited the export of cattle, sheep, and live stock; 10 & 11 Will. III. c. 10, interdicted the export of wool, and other statutes imposed similar restraints. See Parl. Hist., xix. 1100, *et seq.*; Swift's Tract on Irish Manufactures, 1720; Works, vii. 15; Short View of the State of Ireland, 1727. — *Ibid.*, 324.

and a century of remedial legislation to be commenced, for repairing the evils of past misgovernment.

One of the first improvements in the administration of Ireland was a more constant residence of the lord-lieutenant. The mischievous rule of the lords justices was thus abated, and even the influence of the parliamentary undertakers impaired; but the viceroy was still fettered by his exclusive cabinet.[1]

Residence of lord-lieutenant.

Attempts were made so early as 1761 to obtain a septennial Act for Ireland, which resulted in the passing of an octennial bill, in 1768.[2] Without popular rights of election, this new law was no great security for freedom, but it disturbed, early in the reign of a young king, the indefinite lease of power, hitherto enjoyed by a corrupt confederacy; while discussion and popular sentiments were beginning to exercise greater influence over the legislature.

Octennial Act, 1768.

A new Parliament was called, after the passing of the Act, in which the country-party gained ground. The government vainly attempted to supplant the undertakers in the management of the Commons, and were soon brought into conflict with that assembly. The Commons rejected a money bill, "because it did not take its rise in that House;" and in order to prove that they had no desire to withhold supplies from the crown, they made a more liberal provision than had been demanded. The lord-lieutenant, however, — Lord Townshend, — marked his displeasure at this proceeding, by proroguing Parliament as soon as the supplies were voted, and protesting against the vote and resolution of the Commons, as a violation of the law and an invasion of the just rights of the crown.[3] So grave was this

Conflict between the Executive and the Commons, 1769.

Claim to originate money bills, 1769.

[1] Adolphus' Hist., i. 331.

[2] This difference between the law of the two countries was introduced to prevent the confusion of a general election, on both sides of the channel, at the same time. — Walpole's Mem., iii. 155; Lord Chesterfield's Letters, iv. 468; Plowden's Hist., i. 352, 387; Hardy's Life of Lord Charlemont, i. 248-261.

[3] Lords' Journ. (Ireland), iv. 538. The lord-lieutenant, not contented

difference, that the lord-lieutenant suspended the further sitting of Parliament, by repeated prorogations, for fourteen months,[1] — a proceeding which did not escape severe animadversion in the English Parliament.[2] Parliament, when at length reassembled, proved not more tractable than before. In December, 1771, the Commons rejected a money bill because it had been altered in England;[3] and again in 1773, pursued the same course, for the like reason, in regard to two other money bills.[4] In 1775, having consented to the withdrawal of four thousand troops from the Irish establishment, it refused to allow them to be replaced by Protestant troops from England,[5] — a resolution which evinced the growing spirit of national independence. And in the same year, having agreed upon the heads of two money bills,[6] which were returned by the British cabinet with amendments, they resented this interference by rejecting the bills and initiating others, not without public inconvenience and loss to the revenue.[7] This first octennial Parliament exhibited other signs of an intractable temper, and was dissolved in 1776.[8] Nor did government venture to meet the new Parliament for nearly eighteen months.[9]

Repeated prorogations.

Dec. 21, 1771.

Oct. and Nov. 1775.

with this speech on the prorogation, further entered a separate protest in the Lords' Journal. — Commons' Journal (Ireland), viii. 323; Debates of Parliament of Ireland, ix. 181; Plowden's Hist. of Ireland, i. 396; ii. 251 Grattan's Mem., i. 98–101; Lord Mountmorres' Hist., i. 54; Hardy's Life of Lord Charlemont, i. 290.

1 From Dec. 26th, 1769, till Feb. 26th, 1771; Comm. Journ. (Ireland), viii. 354; Plowden's Hist., i. 401.

2 Mr. G. M. Walsingham, May 3d, 1770; Parl. Hist., v. 309.

3 Comm. Journ. (Ireland), viii 467; Adolphus, ii. 14; Life of Grattan, i. 174–185.

4 Dec. 27th, 1773: Comm Journ. (Ireland), ix. 74.

5 Comm. Journ. (Ireland), ix. 223; Grattan's Life, i. 268.

6 Viz., a Bill for additional duties on beer, tobacco, &c.; and another, imposing stamp-duties.

7 Dec. 21st, 1775; Comm. Journ. (Ireland), ix. 244; Plowden's Hist. i. 435.

8 Plowden's Hist., i. 441.

9 The old Parliament was prorogued in June, 1776, and afterwards dis-

In the mean time, causes superior to the acts of a government, the efforts of patriots, and the combinations of parties, were rapidly advancing the independence of Ireland. The American colonies had resented restrictions upon their trade, and the imposition of taxes by the mother-country; and were now in revolt against the rule of England. Who could fail to detect the parallel between the cases of Ireland and America? The patriots accepted it as an encouragement, and their rulers as a warning. The painful condition of the people was also betraying the consequences of a selfish and illiberal policy. The population had increased with astonishing fecundity. Their cheap and ready food, the potato, — and their simple wants, below the standard of civilized life, — removed all restraints upon the multiplication of a vigorous and hardy race. Wars, famine, and emigration had failed to arrest their progress; but misgovernment had deprived them of the means of employment. Their country was rich in all the gifts of God; fertile, abounding with rivers and harbors, and adapted alike for agriculture, manufactures, and commerce. But her agriculture was ruined by absentee landlords, negligent and unskilful tenants, half civilized cottiers; and by restraints upon the free export of her produce. Her manufactures and commerce, — the natural resources of a growing population, — were crushed by the jealousy of English rivals. To the ordinary restraints upon her industry was added, in 1776, an embargo on the export of provisions.[1] And while the industry of the people was repressed by bad laws, it was burdened by the profusion and venality of a corrupt government. What could be expected in such a country, but a wretched, ignorant, and turbulent peasantry, and agrarian outrage? These evils were aggravated by the pressure of the American war, followed

Effect of the American war.

Condition of the people.

solved: the new Parliament did not meet till October 14th, 1777. — Comm Journ., ix. 289, &c.; Plowden's Hist., i. 441.

[1] Grattan's Life, i. 283.

by hostilities with France.[1] The English ministers and Parliament were awakened, by the dangers which threatened the state, to the condition of the sister-country; and England's peril became Ireland's opportunity.

Commercial restrictions removed, 1778.

Encouragement had already been given to the Irish fisheries in 1775;[2] and in 1778, Lord Nugent, supported by Mr. Burke and favored by Lord North, obtained from the Parliament of England a partial relaxation of the restrictions upon Irish trade. The legislature was prepared to make far more liberal concessions; but, overborne by the clamors of English traders, withheld the most important, which statesmen of all parties concurred in pronouncing to be just.[3] The Irish, confirmed in the justice of their cause by these opinions, resented the undue influence of their jealous rivals; and believed that commercial freedom was only to be won by national equality.

Further restrictions removed, 1779.

The distresses and failing revenue of Ireland again attracted the attention of the British Parliament in the ensuing session.[4] England undertook the payment of the troops in the Irish establishment serving abroad,[5] and relieved some branches of her industry;[6] but still denied substantial freedom to her commerce. Meanwhile, the Irish were inflamed by stirring oratory, by continued suffering, and by the successes of the Americans in a like cause. Disappointed in their expectations of relief from the British Parliament, they formed associations for the exclusion of British commodities and the encouragement of native manufactures.[7]

1 Grattan's Life, i. 283–289, 298, &c.; Hardy's Life of Lord Charlemont, i. 368–379.

2 15 Geo. III. c. 31; Plowden's Hist., i. 430.

3 Parl. Hist., xix. 1100–1126; Plowden's Hist., i. 459–466; 18 Geo. III. c. 45 (flax seed); c. 55 (Irish shipping); Adolphus' Hist., ii. 551–554; Grattan's Life, i. 330.

4 Parl. Hist., xx. 111, 136, 248, 635, 663.

5 King's Message, March 18th, 1779; Parl. Hist., xx. 327.

6 *E. g.* hemp and tobacco. — 19 Geo. III. c. 37, 83.

7 Plowden's Hist., i. 485; Grattan's Life, i. 362–364; Hardy's Life of Lord Charlemont, i. 389.

Another decisive movement precipitated the crisis of Irish affairs. The French war had encouraged the formation of several corps of volunteers, for the defence of the country. The most active promoters of this array of military force were members of the country party; and their political sentiments were speedily caught up by the volunteers. At first the different corps were without concert, or communication;[1] but in the autumn of 1779, they received a great accession of strength, and were brought into united action. The country had been drained of its regular army, for the American war; and its coasts were threatened by the enemy. The government, in its extremity, threw itself upon the volunteers, distributed 16,000 stand of arms, and invited the people to arm themselves, without any securities for their obedience. The volunteers soon numbered 42,000 men, chose their own officers, — chiefly from the country party, — made common cause with the people against the government, shouted for free trade, and received the thanks of Parliament for their patriotism.[2] Power had been suffered to pass from the executive and the legislature into the hands of armed associations of men, holding no commissions from the crown, and independent alike of civil and military authority. The government was filled with alarm and perplexity; and the British Parliament resounded with remonstrances against the conduct of ministers, and arguments for the prompt redress of Irish grievances.[3] The Parliament of Ireland showed its determination, by voting supplies for six months only;[4] and the British Parliament, setting itself

The volunteers, 1779.

[1] Plowden's Hist., i. 487; Grattan's Life, i. 343.

[2] Plowden's Hist., i. 493; Lord Sheffield's Observations on State of Ireland, 1785.

[3] Debate on Lord Shelburne's motion in the Lords, Dec. 1st, 1779. — Parl. Hist., xx. 1156; Debate on Lord Upper-Ossory's motion in the Commons, Dec. 6th, 1779; *Ibid.*, 1197; Hardy's Life of Lord Charlemont, i. 380–382; Grattan's Life, i. 368, 389, 397–400; Moore's Life of Lord E. Fitzgerald, i. 187.

[4] Nov., 1779; Plowden's Hist., i. 506.

earnestly to work, passed some important measures for the relief of Irish commerce.[1]

The volunteers demand legislative independence, 1780.

Meanwhile the volunteers, daily increasing in discipline and military organization, were assuming, more and more, the character of an armed political association. The different corps assembled for drill, and for discussion, agreed to resolutions, and opened an extensive communication with one another. Early in 1780, the volunteers demanded, with one voice, the legislative independence of Ireland, and liberation from the sovereignty of the British Parliament.[2] And Mr. Grattan, the ablest and most temperate of the Irish patriots, gave eloquent expression to these claims in the Irish House of Commons.[3]

The Mutiny Bill made permanent.

In this critical conjuncture, the public mind was further inflamed by another interference of the government, in England. Hitherto, Ireland had been embraced in the annual Mutiny Act of the British Parliament. In this year, however, the general sentiment of magistrates and the people being adverse to the operation of such an Act without the sanction of the Irish legislature, Ireland was omitted from the English mutiny bill; and the heads of a separate mutiny bill were transmitted from Ireland. This bill was altered by the English cabinet into a permanent act. Material amendments were also made in a bill for opening the sugar trade to Ireland.[4] No constitutional security had been more cherished than that of an annual mutiny bill, by which the crown is effectually prevented from maintaining a standing army without the consent of Parliament. This security was now denied to Ireland, just when she was most sensitive to her rights and jealous of the sovereignty of England. The Irish Parlia-

[1] Lord North's Propositions, Dec. 13th, 1779; Parl. Hist., xx. 1272; 20 Geo. III. c. 6, 10. 18.

[2] Plowden's Hist., i. 513.

[3] April 19th, 1780; Grattan's Life, ii. 39–55.

[4] Parl. Hist., xxi. 1293; Plowden's Hist., i. 515, &c.; Grattan's Life ii. 60, 71, 85–100, *et seq.*

ment submitted to the will of its English rulers; but the volunteers assembled to denounce them. They declared that their own Parliament had been bought with the wealth of Ireland herself; and clamored more loudly than ever for legislative independence.[1] Nor was such an innovation without effect upon the constitutional rights of England, as it sanctioned, for the first time, the maintenance of a military force within the realm, without limitation as to numbers or duration. Troops raised in England might be transferred to Ireland, and there maintained under military law, independent of the Parliaments of either country. The anomaly of this measure was forcibly exposed by Mr. Fox and the leaders of Opposition, in the British Parliament.[2]

The volunteers continued their reviews and political demonstrations, under the Earl of Charlemont, with increased numbers and improved organization; and again received the thanks of the Irish Parliament.[3] But while they were acting in cordial union with the leaders of the country party, in the House of Commons, the government had secured, — by means too familiar at the Castle, — a majority of that assembly, which steadily resisted further concessions.[4] In these circumstances, delegates from all the volunteers in Ulster were invited to assemble at Dungannon on the 15th February, 1782, "to root out corruption and court influence from the legislative body," and "to deliberate on the present alarming situation of public affairs." The meeting was held in the church: its proceedings were conducted with the utmost pro-

The volunteers, 1780–1.

The convention of Dungannon.

1 Grattan's Life, ii. 127, *et seq.*

2 Feb. 20th, 23d, 1781; Parl. Hist., xxi. 1292.

3 Plowden's Hist., i. 529; Grattan's Life, ii. 103.

4 Plowden's Hist., i. 535–555. Mr. Eden, writing to Lord North, Nov. 10th, 1781, informs him that the Opposition had been gained over, and adds: — "Indeed, I have had a fatiguing week of it in every respect. On Thursday I was obliged to see fifty-three gentlemen separately in the course of the morning, from eight till two o'clock." — *Beresford Corr.*, i. 188; Correspondence of Lord Lieutenant, Grattan's Life, ii. 153–177.

priety and moderation; and it agreed, almost unanimously, to resolutions declaring the right of Ireland to legislative and judicial independence, and free trade.[1] On the 22d, Mr. Grattan, in a noble speech, moved an address of the Commons to His Majesty, asserting the same principles.[2] His motion was defeated, as well as another by Mr. Flood, declaring the legislative independence of the Irish Parliament.[3]

Mr. Grattan's Motion, Feb. 22d, 1782.

Mr. Flood's motion, Feb. 26th, 1782.

In the midst of these contentions, Lord Rockingham's liberal administration was formed, who recalled Lord Carlisle, and appointed the Duke of Portland as lord lieutenant. While the new ministers were concerting measures for the government of Ireland, Mr. Eden, secretary to Lord Carlisle, — who had resisted all the demands of the patriots in the Irish Parliament, — hastened to England; and startled the House of Commons with a glowing statement of the dangers he had left behind him, and a motion to secure the legislative independence of Ireland. His motion was withdrawn, amidst general indignation at the factious motives by which it had been prompted.[4] On the following day, the king sent a message to both houses, recommending the state of Ireland to their serious consideration: to which a general answer was returned, with a view to the coöperation of the Irish Parliament. In Dublin, the Duke of Portland communicated a similar message, which was responded to by an address of singular temper and dignity, — justly called the Irish Declaration of Rights.[5] The Irish Parliament unanimously claimed for itself the sole authority to make

Measures of the Rockingham ministry, April 1782.

April 16th, 1782.

[1] Plowden's Hist., i. 564–569; Hardy's Life of Lord Charlemont, ii. 1, *et seq.*; Life of Grattan, ii. 203, *et seq.*

[2] Irish Parl. Deb., i. 266.

[3] *Ibid.*, 279.

[4] April 8th, 1782: Parl. Hist., xxii. 1241–1264; Wraxall's Mem., iii. 29, 92; Fox's Mem., i. 313; Lord J. Russell's Life of Fox, i. 287–289; Grattan's Life, ii. 208.

[5] Plowden's Hist., i. 595–599; Irish Debates, i. 332–346; Grattan's Life, ii. 230, *et seq.*

laws for Ireland, and the repeal of the permanent Mutiny Act. These claims the British Parliament, animated by a spirit of wisdom and liberality, conceded without reluctance or hesitation.[1] The sixth Geo. I. was repealed; and the legislative and judicial authority of the British Parliament renounced. The right of the Privy Council to alter bills transmitted from Ireland was abandoned, and the perpetual Mutiny Act repealed. The concession was gracefully and honorably made; and the statesmen who had consistently advocated the rights of Ireland, while in opposition, could proudly disclaim the influence of intimidation.[2] The magnanimity of the act was acknowledged with gratitude and rejoicings, by the Parliament and people of Ireland.

Legislative and judicial independence granted, 1782.

But English statesmen, in granting Ireland her independence, were not insensible to the difficulties of her future government; and endeavored to concert some plan of union, by which the interests of the two countries could be secured.[3] No such plan, however, could be devised; and for nearly twenty years the British ministers were left to solve the strange problem of governing a divided state, and bringing into harmony the councils of two independent legislatures. Its solution was naturally found in the continuance of corruption; and the Parliament of Ireland, having gained its freedom, sold it, without compunction, to the Castle.[4] Ireland was governed by her native

Difficulties of Irish independence.

[1] Debates in Lords and Commons, May 17th, 1782; Parl. Hist., xxiii. 16–48; Rockingham Mem., ii. 469–476.

[2] Fox's Mem., i. 393, 403, 404, 418; Lord J. Russell's Life of Fox, i. 290–295; Grattan's Life, ii. 289, *et seq.*; Court and Cabinets of Geo. III., i. 65.

[3] Address of both Houses to the king, May 17th, 1782; Correspondence of Duke of Portland and Marquis of Rockingham; Plowden's Hist., i. 605. The scheme of an union appears to have been discussed as early as 1757. — Hardy's Life of Lord Charlemont, i. 107. And again in 1776; Cornwallis's Corr., iii. 129.

[4] See a curious analysis of the ministerial majority, in 1784, on the authority of the Bolton MSS. — Massey's Hist., iii. 264; and Speech of Mr. Grattan on the Address, Jan. 19th, 1792; Irish Deb., xii. 6–8; and

legislature, but was not the less under the dominion of a close oligarchy, — factious, turbulent, exclusive, and corrupt. And how could it be otherwise? The people, with arms in their hands, had achieved a triumph. "Magna Charta," said Grattan, "was not attained in Parliament; but by the barons, armed in the field."[1] But what influence had the people at elections? Disfranchised and incapacitated, they could pretend to none! The anomalous condition of the Parliament and people of Ireland became the more conspicuous, as they proceeded in their new functions of self-government. The volunteers, not satisfied with the achievement of national independence, now confronted their native Parliament with demands for Parliamentary reform.[2] That cause being discussed in the English Parliament, was eagerly caught up in Ireland. Armed men organized a wide-spread political agitation, sent delegates to a national convention,[3] and seemed prepared to enforce their arguments at the point of the bayonet. Their attitude was threatening; but their cause a hollow pretence. The enfranchisement of Catholics formed no part of their scheme. In order to secure their assistance in the recent struggle for independence, they had, indeed, recommended a relaxation of the penal laws: a common cause had softened the intolerance of Protestants; and some of the most oppressive disabilities of their Catholic brethren had been removed:[4] but as yet the patriots and volunteers had

The volunteers demand Parliamentary reform.

Speech of Mr. Fox, March 23d, 1797. He stated that "a person of high consideration was known to say that 500,000*l.* had been expended to quell an opposition in Ireland, and that as much more must be expended in order to bring the legislature of that country to a proper temper." — Parl. Hist., xxxiii. 143; Speech of Mr. Spring Rice, April 23d, 1834; Hans. Deb., 3d Ser., xxii. 1189; Plowden's Hist., ii. 346, 609.

1 Irish Debates, April 16th, 1782, i. 335.

2 Plowden's Hist., ii. 28; Hardy's Life of Lord Charlemont, ii. 93–134; Grattan's Life, iii. 102–146.

3 Plowden, ii. 56.

4 Viz. in 1778 (17 & 18 Geo. III. c. 49, Ireland), and in 1782; Plowden's Hist., i. 555, 559, 564, 579; and *supra*, p. 330.

no intention of extending to them the least share of civil or political power.

Mr. Flood was the organ of the volunteers in the House of Commons, — a patriot second only to Mr. Grattan in influence and ability, and jealous of the popularity and preëminence of his great rival. In November, 1783, he moved for leave to bring in a bill for the more equal representation of the people. He was met at once with the objection that his proposal originated with an armed association, whose pretensions were incompatible with freedom of debate; and it was rejected by a large majority.[1]

Mr. Flood's motion for reform, Nov. 29th, 1783.

Mr. Flood renewed his efforts in the following year; but the country party were disunited; the owners of boroughs were determined not to surrender their power; the dictation of the volunteers gave just offence; and the division of opinion on the admission of Catholics to the franchise was becoming more pronounced. Again his measure was rejected.[2] The mob resented its rejection with violence and fury; but the great body of the people, whose rights were ignored by the patriots and agitators, regarded it with indifference. The armed agitation proceeded; but the volunteers continued to be divided upon the claims of the Catholics, to which their leader Lord Charlemont was himself opposed.[3] An armed Protestant agitation, and a packed council of borough proprietors, were unpromising instruments for reforming the representation of the people.[4]

Renewed, March 13th, 20th, 1784.

Failure of the cause of reform.

[1] Ayes, 49; Noes, 158. Irish Debates, ii. 353; Fox's Mem., ii. 165, 186; Grattan's Life, iii. 146, *et seq.*; Hardy's Life of Lord Charlemont, ii. 135.

[2] March 13th, 20th, 1784; Irish Deb., iii. 13; Plowden's Hist., ii. 80. Ayes, 85; Noes, 159.

[3] Plowden's Hist., ii. 105; Moore's Life of Lord E. Fitzgerald, i. 189, 198; Hardy's Life of Lord Charlemont, ii. 129.

[4] For a list of the proprietors of Irish nomination boroughs, see Plowden's Hist., ii. *App.* No. 96.

Mr. Pitt's commercial measures, 1785.

A close and corrupt Parliament was left in full possession of its power; and Ireland, exulting in recent emancipation from British rule, was soon made sensible that neither was her commerce free, nor her independence assured. The regulation of her commerce was beyond the power of the Irish legislature: the restrictions under which it labored concerned both countries, and needed the concert of the two Parliaments. Mr. Pitt, wise and liberal in his policy concerning Ireland, regarded commercial freedom as essential to her prosperity and contentment; and in 1785, he prepared a comprehensive scheme to attain that object. Ireland had recently acquired the right of trading with Europe and the West Indies; but was nearly cut off from trade with England herself, and with America and Africa. Mr. Pitt offered liberal concessions on all these points, which were first submitted to the Parliament of Ireland, in the form of eleven resolutions.[1] They were gratefully accepted and acknowledged; but when the minister introduced them to the British Parliament, he was unable, in the plenitude of his power, to overcome the interests and jealousy of traders, and the ignorance, prejudices, and faction of his opponents in the House of Commons. He was obliged to withdraw many of the concessions he had offered, — including the right of trading with India and the foreign West Indies; and he introduced a new proposition, requiring the English navigation laws to be enacted by the Parliament of Ireland. The measure, thus changed, was received with chagrin and resentment by the Parliament and people of Ireland, as at once a mark of English jealousy and injustice, and a badge of Irish dependence.[2] The resolutions of the Irish Parliament had been set aside, the interests of the country sacrificed to those of English traders, and the legislature called upon to register the injurious edicts

[1] Feb. 7th, 1785; Irish Deb., iv. 116; Plowden's Hist., ii. 113, *n.*

[2] Debates, Feb. 22d, and May 12th, in Commons; Parl. Hist., xxv. 311, 575. In Lords, June 7th; *Ibid.*, 820.

of the British Parliament. A measure, conceived in the highest spirit of statesmanship, served but to aggravate the ill-feelings which it had been designed to allay; and was abandoned in disappointment and disgust.[1] Its failure, however, illustrated the difficulties of governing the realm through the agency of two independent Parliaments, and foreshadowed the necessity of a legislative union. Another illustration of the danger of divided councils was afforded, a few years later, by the proceedings of the Irish Parliament on the regency.[2]

A few years later, at a time of peril and apprehension in England, a policy of conciliation was again adopted in Ireland. The years 1792 and 1793 were signalized by the admission of Catholics to the elective franchise and to civil and military offices,[3] the limitation of the Irish pension list,[4] the settlement of a fixed civil list upon the crown in lieu of its hereditary revenues, the exclusion of some of the swarm of placemen and pensioners from the House of Commons, and the adoption of Mr. Fox's protective law of libel.[5] Ireland, however, owed these promising concessions to the wise policy of Mr. Pitt and other English statesmen, rather than to her native Parliament. They were not yielded gracefully by the Irish cabinet; and they were accompanied by rigorous measures of coercion.[6] This was the last hopeful period in the sep

Liberal measures of 1792-3.

[1] Irish Debates, v. 329, &c.; Plowden's Hist., ii. 120-136; Tomline's Life of Pitt, ii. 69-92; Lord Stanhope's Life of Pitt, i. 263-273; Beresford Corr., i. 265.

[2] *Supra*, Vol. I. 162; Hardy's Life of Lord Charlemont, ii. 168-188, Grattan's Life, iii. 341, *et seq.*

[3] *Supra*, p. 330 (1792-3); Plowden's Hist., ii. 407; Moore's Life of Lord E. Fitzgerald, i. 205, 216, 217.

[4] *Supra*, Vol. I. 213; Plowden's Hist., ii. 146, 188, 279.

[5] *Supra*, p. 122.

[6] Plowden's Hist., ii. 471. In 1805 Mr. Grattan stated that this policy of conciliation originated with ministers in England; but being opposed by the ministry in Ireland, its grace and popularity were lost. — Hans. Deb., 1st Ser., iv. 926; Moore's Life of Lord E. Fitzgerald, i. 218; Hardy's Life of Lord Charlemont, ii. 294-300; Grattan's Life, iv. 53-114.

arate history of Ireland, which was soon to close in tumults, rebellion, and civil war. To the seething elements of discord, — social, religious, and political, — were now added the perilous ingredients of revolutionary sentiments and sympathies.

The United Irishmen, 1791.

The volunteers had aimed at worthy objects; yet their association was founded upon revolutionary principles, incompatible with constitutional government. Clamor and complaint are lawful in a free state; but the agitation of armed men assumes the shape of rebellion. Their example was followed, in 1791, by the United Irishmen, whose original design was no less worthy. This association originated with the Protestants of Belfast; and sought "a complete reform of the legislature, founded on the principles of civil, political, and religious liberty."[1] These reasonable objects were pursued for a time, earnestly and in good faith; and motions for reform, on the broad basis of religious equality, were submitted to the legislature by Mr. Ponsonby, where they received ample discussion.[2] But the association was soon to be compromised by republican leaders; and seduced into an alliance with French Jacobins, and a treasonable correspondence with the enemies of their country, in aid of Irish disaffection.[3] Treason took the place of patriotism. This unhappy land was also disturbed by armed and hostile associations of peasants, known as "defenders" and "peep-of-day boys."[4] Society was convulsed with violence, agrarian outrage, and covert treason.

[1] Plowden's Hist., ii 330–334, and App. No. 84: Report of Secret Committee of Lords; Lords' Journ., Ireland, vii. 580; Madden's United Irishmen; Moore's Life of Lord E. Fitzgerald, i. 197.

[2] March 4th, 1794; May 15th, 1797. Plowden's Hist., ii. 452, &c.

[3] In 1795, the Irish Union Societies were formed out of the United Irishmen. The correspondence appears to have commenced in 1795. — Plowden's Hist., ii. 567; Report of Secret Committee of Commons, 1797; Irish Debates, xvii. 522; Grattan's Life, iv. 259, &c.; Moore's Life of Lord E. Fitzgerald, i. 164–166, 256–260, 273, *et seq.*; ii. 9, *et seq.*; Life of Wolfe Tone, i. 132–136, ii. 14, *et seq.*; Report of Secret Committee of Commons, Ireland, 1797; Comm. Journ., Ireland, xvii. App. 829; Castlereagh Corr., i. 189, 296, 366, &c.; Cornwallis's Corr., ii. 338.

[4] Plowden's Hist., ii. 335; Moore's Life of Lord E. Fitzgerald, ii. 6.

Meanwhile, religious animosities, which had been partially allayed by the liberal policy of the government and by the union of Protestants and Catholics in the volunteer forces, were revived with increased intensity. In 1795, Lord Fitzwilliam's brief rule, — designed for conciliation, — merely raised the hopes of Catholics and the fears of Protestants.[1] The peasantry, by whom the peace of the country was disturbed, generally professed one faith; the gentry, another. Traditional hatred of the Romish faith was readily associated, in the minds of the latter, with loyalty and the protection of life and property. To them papist and "defender" were the same. Every social disorder was ascribed to the hated religion. Papist enemies of order, and conspirators against their country, were banding together; and loyal Protestants were invited to associate in defence of life, property, and religion. With this object, Orange societies were rapidly formed; which, animated by fear, zeal, and party spirit, further inflamed the minds of Protestants against Catholics. Nor was their hostility passive. In September, 1795, a fierce conflict arose between the Orangemen and defenders, — since known as the battle of the Diamond, — which increased the inveteracy of the two parties. Orangemen endeavored, by the eviction of tenants, the dismissal of servants, and worse forms of persecution, to drive every Catholic out of the county of Armagh;[2] and defenders retaliated with murderous outrages.[3] In 1796, the disturbed state of the country was met by further measures of repression, which were executed by the magistrates and military with merciless severity, too often unwarranted by law.[4] To other causes of discontent, was added resentment of oppression and injus-

Feuds between Protestants and Catholics.

Orange societies.

[1] Moore's Life of Lord E. Fitzgerald, i. 260; Grattan's Life, iv. 182; Castlereagh Corr., i. 10.

[2] Speech of Mr. Grattan, Feb. 22d, 1796; Irish Parl. Deb., xvi. 107.

[3] Speech of Attorney-General, Feb. 20th, 1796; *Ibid.*, xvi. 102.

[4] Plowden's Hist., ii. 544–567, 573, 582, 624; Lord Moira's Speech, Nov 22d, 1797; Parl. Hist., xxxiii. 1058.

tice. The country was rent asunder by hatreds, strifes, and disaffection, and threatened, from without, by hostile invasion which Irish traitors had encouraged.[1] At length these evil passions, fomented by treason on one side and by cruelty on the other, exploded in the rebellion of 1798.

The leaders of this rebellion were Protestants.[2] The Cath-

The rebellion of 1798.

olic gentry and priesthood recoiled from any contact with French atheists and Jacobins: they were without republican sympathies; but could not fail to deplore the sufferings and oppression of the wretched peasantry who professed their faith. The Protestant party, however, — frantic with fear, bigotry, and party spirit, — denounced the whole Catholic body as rebels and public enemies. The hideous scenes of this rebellion are only to be paralleled by the enormities of the French Revolution. The rebels were unloosed savages, — mad with hatred and revenge, burning, destroying, and slaying; the loyalists and military were ferocious and cruel beyond belief. Not only were armed peasants hunted down like wild beasts; but the disturbed districts were abandoned to the license of a brutal soldiery. The wretched "croppies" were scourged, pitch-capped, picketed, half-hung, tortured, mutilated, and shot; their homes rifled and burned; their wives and daughters violated with revolting barbarity.[3] Before the outbreak of the rebellion, the soldiers had been utterly demoralized by license and cruelty, unchecked by the civil power.[4] Sir Ralph Abercromby, in a general order, had declared "the army to be in a state of licentiousness, which must render it

[1] Report of Secret Committee of Lords, 1798; Lords' Journ., Ireland, viii. 588.

[2] Plowden's Hist., ii. 700.

[3] Plowden's Hist., ii. 701, 705 and *note*, 712–714. It was a favorite sport to fasten caps filled with hot pitch on to the heads of the peasants, or to make them stand upon a sharp stake or picket. — *Ibid.*, 713.

[4] The military had been enjoined by proclamation to act without being called upon by the civil magistrates. — Plowden's Hist., ii. 622, App. civ cv.; Lord Dunfermline's Memoir of Sir Ralph Abercromby, 69.

formidable to every one but the enemy."[1] In vain had that humane and enlightened soldier attempted to restrain military excesses. Thwarted by the weakness of Lord Camden, and the bigotry and fierce party zeal of his cabinet, he retired in disgust from the command of an army, which had been degraded into bands of ruffians and bandits.[2] The troops, hounded on to renewed license, were fit instruments of the infuriated vengeance of the ruling faction.

Lord Cornwallis lord-lieutenant.

In the midst of these frightful scenes, Lord Cornwallis assumed the civil and military government of Ireland. Temperate, sensible, and humane, he was horrified not less by the atrocities of the rebels, than by the revolting cruelty and lawlessness of the troops, and the vindictive passions of all concerned in the administration of affairs.[3] Moderation and humanity were to be found in none but English regiments.[4] With native officers, rapine and murder were no crimes.[5]

[1] Memoir of Sir Ralph Abercromby, 93. [2] *Ibid.*, 89–138.

[3] Writing June 28th, 1798, he said: — "I am much afraid that any man in a brown coat, who is found within several miles of the field of action, is butchered without discrimination." — "It shall be one of my first objects to soften the ferocity of our troops, which I am afraid, in the Irish corps at least, is not confined to the private soldiers." — *Cornwallis Corr.*, ii. 355. Of the militia he said: — "They are ferocious and cruel in the extreme, when any poor wretches, either with or without arms, come within their power: in short, murder appears to be their favorite pastime." — *Ibid.*, 358. "The principal persons of this country, and the members of both Houses of Parliament, are, in general, averse to all acts of clemency . . . and would pursue measures that could only terminate in the extirpation of the greater number of the inhabitants, and in the utter destruction of the country." — *Ibid.*, 358. Again, he deplores "the numberless murders that are hourly committed by our people without any process or examination whatever." "The conversation of the principal persons of the country tends to encourage this system of blood; and the conversation, even at my table, where you may well suppose I do all I can to prevent it, always turns on hanging, shooting, burning, &c., &c.; and if a priest has been put to death, the greatest joy is expressed by the whole company." — *Ibid.*, 369.

[4] In sending the 100th Regiment and "some troops that can be depended upon," he wrote: — "The shocking barbarities of our national troops would be more likely to provoke rebellion than to suppress it." — *Ibid.*, 377. See also his General Order, Aug. 31st, 1798. — *Ibid.*, 395.

[5] *E. g.* the murder of Dogherty. — *Ibid.*, 420. See also Lord Holland's Mem., i. 105–114.

The Union concerted.

The rebellion was crushed; but how was a country so convulsed with evil passions, to be governed? Lord Cornwallis found his council, or junto, at the castle by whom it had long been ruled, "blinded by their passions and prejudices." Persuaded that the policy of this party had aggravated the political evils of their wretched country, he endeavored to save the Irish from themselves, by that scheme of union which a greater statesman than himself had long since conceived.[1] Under the old system of government, concessions, conciliation, and justice were impracticable.[2] The only hope of toleration and equity was to be found in the mild and impartial rule of British statesmen, and an united Parliament. In this spirit was the union sought by Mr. Pitt, who "resented and spurned the bigoted fury of Irish Protestants;"[3] in this spirit was it promoted by Lord Cornwallis.[4] Self-government had become impossible. "If ever there was a country," said Lord Hutchinson, "unfit to govern itself, it is Ireland; a corrupt aristocracy, a ferocious commonalty, a distracted government, a divided people."[5] Imperial considerations, no less paramount, also pointed to the union. Not only had the divisions of the Irish people rendered the difficulties of internal administration insuperable, but they had proved a source of weakness and danger from without. Ireland could no longer be suffered to continue a separate realm, but must be fused and welded into one state with Great Britain.

Difficulties in effecting the Union.

But the difficulties of this great scheme were not easily to be overcome. However desirable and even necessary for the interests of Ireland herself, an invitation to surrender her independence, so recently acquired, deeply affected her national sensibilities. To be merged in the greater and more powerful kingdom, was to lose her distinct nationality. And how could she be

1 Cornwallis Corr., ii. 404, 405.
2 *Ibid.*, 414, 415, 416.
3 Wilberforce's Diary, July 16th, 1798.
4 Cornwallis Corr., ii. 418, 419, &c.; Castlereagh Corr., i. 442.
5 Memoir of Sir Ralph Abercromby, 136.

assured against neglect and oppression, when wholly at the mercy of the Parliament of Great Britain, whose sovereignty she had lately renounced? The liberties she had won in 1782, were all to be forfeited and abandoned. At any other time, these national feelings alone would have made an union impossible. But the country, desolated by a war of classes and religions, had not yet recovered the united sentiments of a nation.

Objections of the ruling party.

But other difficulties, no less formidable, were to be encountered. The Irish party were invited to yield up the power and patronage of the castle; the peers to surrender their proud position as hereditary councillors, in Parliament; the great families to abandon their boroughs. The compact confederacy of interests and corruption was to be broken up.[1] But the government, convinced of the necessity of the union, was prepared to overcome every obstacle.

Means by which the Union was accomplished.

The Parliament of Great Britain recognized the union as a necessary measure of state policy; and the masterly arguments of Mr. Pitt[2] admitted of little resistance.[3] But the first proposal to the Irish Parliament miscarried; an amendment in favor of maintaining an independent legislature being lost by a single

[1] "There are two classes of men in Parliament, whom the disasters and sufferings of the country have but very imperfectly awakened to the necessity of a change, viz., the borough proprietors, and the immediate agents of government." — *Lord Cornwallis to Duke of Portland*, Jan. 5th, 1799.; Corr., iii. 31. Again: — "There certainly is a very strong disinclination to the measure in many of the borough proprietors, and a not less marked repugnance in many of the official people, particularly in those who have been longest in the habits of the current system." — *Same to Same*, Jan. 11th, 1799; *Ibid.*, 34. And much later in the struggle, his lordship wrote: — "The nearer the great event approaches, the more are the needy and interested senators alarmed at the effects it may possibly have on their interests, and the provision for their families; and I believe that half of our majority would be at least as much delighted as any of our opponents, if the measure could be defeated." — *Ibid.*, 228.

[2] Jan. 23d and 31st, 1799.

[3] In the Commons, his resolutions were carried by 149 votes against 24, and in the Lords without a division. — Plowden's Hist., ii. 896.

vote.[1] It was plain that corrupt interests could only be overcome by corruption. Nomination boroughs must be bought and their members indemnified, county interests conciliated, officers and expectant lawyers compensated, opponents bribed. Lord Castlereagh estimated the cost of these expedients at a million and a half; and the price was forthcoming.[2] The purchase of boroughs was no new scheme, having been proposed by Mr. Pitt himself, as the basis of his measure of Parliamentary reform in 1785[3]; and now it was systematically carried out in Ireland. The patrons of boroughs received 7,500*l.* for each seat; and eighty-four boroughs were disfranchised.[4] Lord Downshire was paid 52,500*l.* for seven seats; Lord Ely, 45,000*l.* for six.[5] The total compensation amounted to 1,260,000*l.*[6] Peers were further compensated for the loss of their privileges in the national council, by profuse promises of English peerages, or promotion in the peerage of Ireland; commoners were conciliated by new honors,[7] and by the

[1] Jan. 22d, 1799. Ayes, 106; Noes, 105. — Cornwallis Corr., iii. 40–51.

[2] Castlereagh Corr., ii. 151. His lordship divided the cost as follows: — Boroughs, 756,000*l.*; county interests, 224,000*l.*; barristers, 200,000*l.*; purchasers of seats, 75,000*l.*; Dublin, 200,000*l.*; total, 1,433,000*l.* — Cornwallis Corr., iii. 81; Stanhope's Life of Pitt, iii. 180. Lord Cornwallis wrote, July 1st, 1799: — "There cannot be a stronger argument for the measure than the overgrown Parliamentary power of five or six of our pampered borough-mongers, who are become most formidable to government, by their long possession of the entire patronage of the crown, in their respective districts." — *Corr.*, iii. 110.

[3] *Supra*, Vol. I., p. 317.

[4] Of the thirty-four boroughs retained, nine only were open. — Cornwallis Corr., iii. 234, 324. See list of boroughs disfranchised and sums paid to proprietors. — *Ibid.*, 321–324. The Ponsonbys exercised influence over twenty-two seats; Lord Downshire and the Beresfords, respectively, over nearly as many. Twenty-three of the thirty-four boroughs remained close until the Reform Act of 1832. — *Ibid.*, 324. Many of the counties also continued in the hands of the great families. — *Ibid.*; and see *supra*, Vol. I., 288.

[5] Plowden's Hist., ii. 1018, 1067; Castlereagh Corr., iii. 56–67; Cornwallis Corr., iii. 324; Stanhope's Life of Pitt, iii. 227.

[6] Cornwallis Corr., iii. 323.

[7] Castlereagh Corr., iii. 330; Cornwallis Corr., iii. 244, 252, 257, 262. Twenty-nine Irish peerages were created, of which seven were unconnected

largesses of the British government. Places were given or promised, pensions multiplied, secret-service money exhausted.[1] In vain Lord Cornwallis complained of the "political jobbing" and "dirty business" in which he was "involved beyond all bearing," and "longed to kick those whom his public duty obliged him to court." In vain he "despised and hated himself," while "negotiating and jobbing with the most corrupt people under heaven."[2] British gold was sent for, and distributed[3]; and, at length, — in defiance of threats of armed resistance,[4] in spite of insidious promises of relief to Catholics,[5] and corrupt defection among the supporters of government,[6] — the cause was won. A great end was compassed by means the most base and shameless. Grattan, Lord Charlemont, Ponsonby, Plunket,

with the Union; twenty Irish Peers were promoted, and six English peerages granted for Irish services. — *Ibid.*, 318. See also Lord Stanhope's Life of Pitt, iii. 180.

[1] Cornwallis Corr., iii. 278, 340; Grattan's Life, v. iii.

[2] Cornwallis Corr., iii. 102. The luckless viceroy applied to himself the appropriate lines of Swift: —

> "So to effect his monarch's ends,
> From hell a viceroy devil ascends:
> His budget with corruption cramm'd —
> The contributions of the damn'd —
> Which with unsparing hand he strows
> Through courts and senates, as he goes;
> And then, at Beelzebub's black hall,
> Complains his budget is too small."

[3] Cornwallis's Corr., iii. 151, 156, 201, 202, 226, 309; Cotte's Hist. of the Union.

[4] *Ibid.*, 167, 180.

[5] *Ibid.*, 51, 55, 63, 149; Castlereagh Corr., ii. 45, *et supra*, p. 335.

[6] "Sir R. Butler, Mahon, and Fetherstone were taken off by county cabals during the recess, and Whaley absolutely bought by the Opposition stock purse. He received, I understand, 2000*l.* down, and is to receive as much more after the service is performed. We have undoubted proofs though not such as we can disclose, that they are enabled to offer as high as 5000*l.* for an individual vote, and I lament to state that there are individuals remaining amongst us that are likely to yield to this temptation." — *Lord Castlereagh to Duke of Portland*, Feb. 7th, 1800; Cornwallis Corr., iii. 182. "The enemy, to my certain knowledge, offer 5000*l.* ready money for a vote." — *Lord Cornwallis to Bishop of Lichfield; Ibid.*, 184.

and a few patriots continued to protest against the sale of the liberties and free constitution of Ireland. Their eloquence and public virtue command the respect of posterity; but the wretched history of their country denies them its sympathy.[1]

Terms of the union.

The terms of the union were now speedily adjusted, and ratified by the Parliaments of both countries.[2] Ireland was to be represented, in the Parliament of the United Kingdom, by four spiritual lords, sitting by rotation of sessions; by twenty-eight temporal peers, elected for life by the Irish peerage; and by a hundred members of the House of Commons. Her commerce was at length admitted to a freedom which, under other conditions, could not have been attained.[3]

Results of the union.

Such was the incorporation of the two countries; and henceforth the history of Ireland became the history of England. Had Mr. Pitt's liberal and enlightened policy been carried out, the Catholics of Ireland would have been at once admitted to a participation in the privileges of the constitution; provision would have been made for their clergy; and the grievances of the tithe system would have been redressed.[4] But we have seen how his statesmanship was overborne by the scruples of the king;[5] and how long and arduous was the struggle by which religious liberty was won. The Irish were denied those rights which English statesmen had designed for them. Nor was this the worst evil which followed the fall of Mr. Pitt, and the reversal of his policy. So long as narrow Tory principles prevailed in the councils of England, the government of Ireland was confided to the kindred party at the castle. Protestant ascendency was maintained as rigorously as ever: Catholics

[1] Grattan's Life, v. 17, *et seq.*, 75–180.

[2] 39 & 40 Geo. III. c. 67; 40 Geo. III. c. 38. (Ireland.)

[3] 39 & 40 Geo. III. c. 67.

[4] Letter of Mr. Pitt, Nov. 17th, 1798; Cornwallis Corr., ii. 440; Lord Stanhope's Life of Pitt, iii. 160.

[5] Vol. I. 85; and *supra*, p. 336.

were governed by Orangemen; the close oligarchy which had ruled Ireland before the union was still absolute. Repression and coercion continued to be the principles of its harsh domination.[1] The representation of Ireland, in the united Parliament, continued in the hands of the same party, who supported Tory ministers, and encouraged them to resist every concession which more liberal statesmen proposed. Political liberties and equality were withheld; yet the superior moderation and enlightenment of British statesmen secured a more equitable administration of the laws, and much remedial legislation, — designed for the improvement of the social and material condition of the people. These men earnestly strove to govern Ireland well, within the range of their narrow principles. The few restrictions which the union had still left upon her commerce were removed;[2] her laws were reviewed, and their administration amended; her taxation was lightened; the education of her people encouraged; her prosperity stimulated by public works. Despite of insufficient capital and social disturbance, her trade, shipping, and manufactures expanded with her freedom.[3]

[1] Lord Cornwallis had foreseen this evil. He wrote, May 1st, 1800: — "It a successor were to be appointed who should, as almost all former lords-lieutenants have done, throw himself into the hands of this party, no advantage would be derived from the Union." — *Corr.*, iii. 237. Again, Dec. 1st, 1800: — "They assert that the Catholics of Ireland (seven tenths of the population of the country) never can be good subjects to a Protestant government. What then have we done, if this position be true? We have united ourselves to a people whom we ought, in policy, to have destroyed." — *Ibid.*, 307. Again, Feb. 15th, 1801: — "No consideration could induce me to take a responsible part with any administration who can be so blind to the interest, and indeed to the immediate security, of their country, as to persevere in the old system of proscription and exclusion in Ireland." — *Ibid.*, 337.

[2] Corn trade, 46 Geo. III. c. 97; Countervailing Duties, 4 Geo. IV. c. 72; Butter trade, 8 Geo. IV. c. 61; 9 Geo. IV. c. 88.

[3] See debate on Repeal of the Union, April 1834, and especially Mr. Spring Rice's able and elaborate speech. — Hans. Deb., 3d Ser., xxii. 1092; *et seq.* Martin's Ireland before and after the Union, 3d ed., pref., and chap. ii. iii., &c.

Irish liberties secured by Relief Act and reform.

At length, after thirty years, the people of Ireland were admitted to the rights of citizens. The Catholic Relief Act was speedily followed by an amendment of the representation; and from that time, the spirit of freedom and equality has animated the administration of Irish affairs. The party of Protestant ascendency was finally overthrown; and rulers pledged to a more liberal policy, guided the councils of the state. Ireland shared with England every extension of popular rights. The full development of her liberties, however, was retarded by the factious violence of parties, by the divisions of Orangemen and repealers, by old religious hatreds, by social feuds and agrarian outrages, and by the wretchedness of a population constantly in excess of the means of employment. The frightful visitation of famine in 1846, succeeded by an unparalleled emigration, swept from the Irish soil more than a fourth of its people.[1] Their sufferings were generously relieved by England; and, grievous as they were, the hand of God wrought greater blessings for the survivors, than any legislation of man could have accomplished.

The Irish famine.

Freedom and equality of Ireland.

In the midst of all discouragements, — in spite of clamors and misrepresentation, in defiance of hostile factions, — the executive and the legislature have nobly striven to effect the political and social regeneration of Ireland. The great English parties have honorably vied with one another in carrying out this policy. Remedial legislation for Ireland, and the administration of her affairs, have, at some periods, engrossed more attention than the whole British empire. Ancient feuds have yet to be extinguished, and religious divisions healed; but nothing has been wanting that the wisdom and beneficence of

[1] In the ten years, from 1841 to 1851, it had decreased from 8,175,124 to 6,552,385, or 19.85 per cent. The total loss, however, was computed at 2,466,414. The decrease amounted to forty-nine persons to every square mile. — Census Report, 1851.

the state could devise for insuring freedom, equal justice, and the privileges of the constitution, to every class of the Irish people. Good laws have been well administered; franchises have been recognized as rights, — not admitted as pretences. Equality has been not a legal theory, but an unquestioned fact. We have seen how Catholics were excluded from all the rights of citizens. What is now their position? In 1860, of the twelve judges on the Irish bench, eight were Catholics.[1] In the southern counties of Ireland, Catholic gentlemen have been selected, in preference to Protestants, to serve the office of sheriff, in order to insure confidence in the administration of justice. England has also freely opened to the sons of Ireland the glittering ambition of arms, of statesmanship, of diplomacy, of forensic honor. The names of Wellington, Castlereagh, and Palmerston attest that the highest places in the state may be won by Irish genius.

The number of distinguished Irishmen who have been added to the roll of British peers, proves with what welcome the incorporation of the sister kingdom has been accepted. Nor have other dignities been less freely dispensed to the honorable ambition of their countrymen. One illustration will suffice. In 1860, of the fifteen judges on the English bench, no less than four were Irishmen.[2] Freedom, equality, and honor have been the fruits of the union; and Ireland has exchanged an enslaved nationality for a glorious incorporation with the first empire of the world.

[1] Sir Michael O'Loghlin was the first Catholic promoted to the bench, as master of the rolls. — Grattan's Life, i. 66.

[2] Viz., Mr. Justice Willes, Mr. Justice Keating, Mr. Justice Hill, and Baron Martin.

CHAPTER XVII.

Free Constitutions of British Colonies: — Sovereignty of England: — Commercial Restrictions: — Taxation of the American Colonies: — Thei Resistance and Separation: — Crown Colonies: — Canada: — Australia: — Colonial Administration after the American War: — New Commercial Policy affecting the Colonies: — Responsible Government: — Democratic Colonial Constitutions: — India.

Colonists have borne with them the laws of England.

It has been the destiny of the Anglo-Saxon race to spread through every quarter of the globe their courage and endurance, their vigorous industry and love of freedom. Wherever they have founded colonies they have borne with them the laws and institutions of England, as their birthright, so far as they were applicable to an infant settlement.[1] In territories acquired by conquest or cession, the existing laws and customs of the people were respected, until they were qualified to share the franchises of Englishmen. Some of these, — held only as garrisons, — others peopled with races hostile to our rule or unfitted for freedom, were necessarily governed upon different principles. But in quitting the soil of England to settle new colonies, Englishmen never renounced her freedom. Such being the noble principle of English colonization, circumstances favored the early development of colonial liberties. The Puritans, who founded the New England colonies, having fled from the oppression of Charles I., carried with them a stern love of civil liberty, and estab-

[1] Blackstone's Comm., i. 107; Lord Mansfield's Judgment in Campbell v. Hall; Howell's St. Tr., xx. 289; Clark's Colonial Law, 9, 139, 181, &c.; Sir G. Lewis on the Government of Dependencies, 189–203, 308; Mills' Colonial Constitutions, 18.

lished republican institutions.[1] The persecuted Catholics who settled Maryland, and the proscribed Quakers who took refuge in Pennsylvania, were little less democratic.[2] Other colonies founded in America and the West Indies, in the seventeenth century, merely for the purposes of trade and cultivation, adopted institutions, less democratic indeed, but founded on principles of freedom and self-government.[3] Whether established as proprietary colonies, or under charters held direct from the Crown, the colonists were equally free.

Ordinary form of colonial constitutions.

The English constitution was generally the type of these colonial governments. The governor was the viceroy of the Crown; the legislative council, or upper chamber, appointed by the governor, assumed the place of the House of Lords; and the representative assembly chosen by the people was the express image of the House of Commons. This miniature Parliament, complete in all its parts, made laws for the internal government of the colony. The governor assembled, prorogued, and dissolved it; and signified his assent or dissent to every act agreed to by the chambers; the upper house mimicked the dignity of the House of Peers;[4] and the lower house insisted on the privileges of the Commons, especially that of originating all taxes and grants of money for the public

[1] In three of their colonies the council was elective; in Connecticut and Rhode Island the colonists also chose their governor. — Adam Smith, book iv. ch. 7. But the king's approval of the governor was reserved by 7 & 8 Will. III c. 22

[2] Bancroft's Hist. of the Colonization of the United States, i. 264; iii. 94.

[3] Merivale's Colonization, ed. 1861, 95, 103.

[4] In 1858, a quarrel arose between the two Houses in Newfoundland, in consequence of the Upper House insisting upon receiving the Lower House at a conference, sitting and covered, — an assumption of dignity which was resented by the latter. The governor having failed to accommodate the difference, prorogued the Parliament before the supplies were granted. In the next session these disputes were amicably arranged. Message of Council, April 23d, 1858, and reply of House of Assembly; Private Correspondence of Sir A. Bannerman.

service.[1] The elections were also conducted after the fashion of the mother country.[2] Other laws and institutions were imitated not less faithfully. Jamaica, for example, maintained a court of King's bench, a court of common pleas, a court of exchequer, a court of chancery, a court of admiralty, and a court of probate. It had grand and petty juries, justices of the peace, courts of quarter sessions, vestries, a coroner, and constables.[3]

The sovereignty of England.

Every colony was a little state, complete in its legislature, its judicature, and its executive administration. But, at the same time, it acknowledged the sovereignty of the mother country, the prerogatives of the Crown, and the legislative supremacy of Parliament. The assent of the king, or his representative, was required to give validity to acts of the colonial legislature; his *veto* annulled them;[4] while the Imperial Parliament was able to bind the colony by its acts, and to supersede all local legislation. Every colonial judicature was also subject to an appeal to the king in council, at Westminster. The dependence of the colonies, however, was little felt in their internal government. They were secured from interference by the remoteness of the mother country,[5] and the ignorance, indifference, and preoccupation of her rulers. In matters of imperial concern, England imposed her own policy; but otherwise left them free. Asking no aid of her, they escaped her domination. All their expenditure, civil and military, was defrayed by taxes raised by themselves. They

[1] Stokes' British Colonies, 241; Edwards' Hist. of the West Indies, ii. 419; Long's Hist. of Jamaica, i. 56.

[2] Edwards, ii. 419; Haliburton's Nova Scotia, ii. 319.

[3] Long's Hist. of Jamaica, i. 9.

[4] In Connecticut and Rhode Island, neither the crown nor the governor were able to negative laws passed by the Assemblies.

[5] "Three thousand miles of ocean lie between you and them," said Mr. Burke. "No contrivance can prevent the effect of this distance in weakening government." Adam Smith observed:—"Their situation has placed them less in the view and less in the power of the mother country." — *Book* iv. ch. 7.

provided for their own defence against the Indians and the enemies of England. During the seven years' war, the American colonies maintained a force of 25,000 men, at a cost of several millions. In the words of Franklin, "they were governed, at the expense to Great Britain, of only a little pen, ink, and paper: they were led by a thread."[1]

Commercial restrictions.

But little as the mother country concerned herself in the political government of her colonies, she evinced a jealous vigilance in regard to their commerce. Commercial monopoly, indeed, was the first principle in the colonial policy of England, as well as of the other maritime states of Europe. She suffered no other country but herself to supply their wants; she appropriated many of their exports; and, for the sake of her own manufacturers, insisted that their produce should be sent to her in a raw, or unmanufactured state. By the Navigation Acts, their produce could only be exported to England in English ships.[2] This policy was avowedly maintained for the benefit of the mother country, — for the encouragement of her commerce, her shipping, and manufactures, — to which the interests of the colonies were sacrificed.[3] But, in compensation for this monopoly, she gave a preference to the produce of her own colonies, by protective and prohibitory duties upon foreign commodities. In claiming a monopoly of their markets, she, at the same time, gave them a reciprocal monopoly of her own. In some cases she encouraged the production of their staples by bounties. A commercial policy so artificial as this, — the creature of laws striving against nature, — marked the dependence of the colonies, crippled their industry, fomented discontents, and even provoked war with foreign states.[4] But it was a policy common to every European government, until enlightened by economical science;

[1] Evidence before the Commons, 1766; Parl. Hist., xvi. 139–141.

[2] The first Navigation Act was passed in 1651, during the Commonwealth; Merivale, 75, 84, 89; Adam Smith, Book iv. ch. 7.

[3] *Ibid.*

[4] Adam Smith's Wealth of Nations, book iv. ch. 7.

and commercial advantages were, for upwards of a century, nearly the sole benefit which England recognized in the possession of her colonies.[1]

Taxes and tribute common to dependencies.

In all ages, taxes and tribute had been characteristic incidents of a dependency. The subject provinces of Asiatic monarchies, in ancient and modern times, had been despoiled by the rapacity of satraps and pashas, and the greed of the central government. The Greek colonies, which resembled those of England more than any other dependencies of antiquity, were forced to send contributions to the treasury of the parent state. Carthage exacted tribute from her subject towns and territories. The Roman provinces "paid tribute unto Cæsar." In modern times, Spain received tribute from her European dependencies, and a revenue from the gold and silver mines of her American colonies. It was also the policy of France, Holland, and Portugal to derive a revenue from their settlements.[2]

English colonies free from imperial taxation.

But England, satisfied with the colonial trade, by which her subjects at home were enriched, imposed upon them alone all the burdens of the state.[3] Her costly wars, the interest of her increasing debt, her naval and military establishments, — adequate for the defence of a widespread empire, — were all maintained by the dominant country herself. James II. would have levied taxes upon the colonists of Massachusetts; but was assured by Sir William Jones that he could no more "levy money without their consent in an assembly, than they could discharge themselves from their allegiance."[4] Fifty years later, the shrewd instinct of

Arguments in favor of taxation.

[1] Adam Smith's Wealth of Nations, book iv. ch. 7.

[2] Sir G. Lewis on the Government of Dependencies, 99, 101, 106, 112, 124, 139, 149, 211, *et seq.*; Adam Smith, book iv. ch. 7; Raynal, Livres i. ii. vi.–ix. xii. xiii.

[3] "The English Colonists have never yet contributed anything towards the defence of the mother country, or towards the support of its civil government." — *Adam Smith*, book iv. ch. 7.

[4] Grahame's Hist. of the United States, i. 366.

Sir Robert Walpole revolted against a similar attempt.[1] But at length, in an evil hour, it was resolved by George III. and his minister Mr. Grenville,[2] that the American colonies should be required to contribute to the general revenues of the government. This new principle was apparently recommended by many considerations of justice and expediency. Much of the national debt had been incurred in defence of the colonies, and in wars for the common cause of the whole empire.[3] Other states had been accustomed to enrich themselves by the taxation of their dependencies; and why was England alone to abstain from so natural a source of revenue? If the colonies were to be exempt from the common burdens of the empire, why should England care to defend them in war, or incur charges for them in time of peace? The benefits of the connection were reciprocal; why, then, should the burdens be all on one side? Nor, assuming the equity of imperial taxation, did it seem beyond the competence of Parliament to establish it. The omnipotence of Parliament was a favorite theory of lawyers; and for a century and a half, the force of British statutes had been acknowledged without question, in every matter concerning the government of the colonies.

No charters exempted colonists from the sovereignty of the parent state, in matters of taxation; nor were there wanting precedents, in which they had submitted to imperial imposts without remonstrance. In carrying out a restrictive commercial policy, Parliament had passed numerous acts providing for the levy of colonial import and export duties. Such duties, from their very nature, were unproductive, — imposing restraints upon trade, and offering encouragements to smuggling. They were designed for commercial regulation rather than revenue; but were collected by the king's

[1] Walpole's Mem., ii. 70. "I have Old England set against me," he said, — by the excise scheme, — "do you think I will have New England likewise?" — *Coxe's Life*, i. 123.

[2] Wraxall's Mem., ii. 111; Nichols' Recoll., i. 205; Bancroft's Amer. Rev., iii. 307.

[3] Adam Smith, book iv. ch. 7; Walpole's Mem., ii. 71.

officers, and payable into the Exchequer. The state had further levied postage duties within the colonies.[1]

Arguments on the other side.

But these considerations were outweighed by reasons on the other side. Granting that the war expenditure of the mother country had been increased by reason of her colonies, who was responsible for European wars and costly armaments? Not the colonies, which had no voice in the government, but their English rulers, who held in their hands the destinies of the empire. And if the English treasury had suffered, in defence of the colonies; the colonists had taxed themselves heavily for protection against the foes of the mother country, with whom they had no quarrel.[2] But, apart from the equity of the claim, was it properly within the jurisdiction of Parliament to enforce it? The colonists might be induced to grant a contribution, but could Parliament constitutionally impose a tax, without their consent? True, that this imperial legislature could make laws for the government of the colonies; but taxation formed a marked exception to general legislation. According to the principles, traditions, and usage of the constitution, taxes were granted by the people, through their representatives. This privilege had been recognized for centuries, in the parent state; and the colonists had cherished it with traditional veneration, in the country of their adoption. They had taxed themselves, for local objects, through their own representatives; they had responded to requisitions from the Crown for money; but never, until now, had it been sought to tax them directly, for imperial purposes, by the authority of Parliament.

A statesman imbued with the free spirit of our constitution could not have failed to recognize these overruling prin-

[1] Evidence of Dr. Franklin, 1766; Parl. Hist., xvi. 143; Stedman's Hist. of the American War., i. 10, 44; Rights of Great Britain Asserted, 102; Adolphus Hist., i. 145; Bancroft's Hist. of the American Revolution, ii. 260, *et seq.*; Dr. Johnson's Taxation no Tyranny, Works, xii. 177; Speech of Lord Mansfield, Jan. 1766; Parl. Hist., xvi. 166; Burke's Speech on American Taxation, 1774, Works, ii. 380; Speech of Governor Pownall. Nov. 16th, 1775; Parl. Hist., xviii. 984.

[2] Dr. Franklin's Ev., Parl. Hist., xvi. 139.

ciples. He would have seen, that if it were fit that the colonies should contribute to the imperial treasury, it was for the Crown to demand their contributions through the governors; and for the colonial legislatures to grant them. But neither the king nor his minister were alive to these principles. The one was too conscious of kingly power, to measure nicely the rights of his subjects; and the other was blinded by a pedantic reverence for the authority of Parliament.[1]

In 1764, an act was passed, with little discussion, imposing customs' duties upon several articles imported into the American colonies, — the produce of these duties being reserved for the defence of the colonies themselves.[2] At the same time, the Commons passed a resolution, that "it may be proper to charge certain stamp duties" in America,[3] as the foundation of future legislation. The colonists, accustomed to perpetual interference with their trade, did not dispute the right of the mother country to tax their imports; but they resolved to evade the impost, as far as possible, by the encouragement of native manufactures. The threatened stamp act, however, they immediately denounced as an invasion of the rights of Englishmen, who could not be taxed otherwise than by their representatives. But, deaf to their remonstrances, Mr. Grenville, in the next session, persisted in his stamp bill. It attracted little notice in this country; the people could bear with complacency the taxation of others; and never was there a Parliament more indifferent to constitutional principles and popular rights. The colonists, however, and their agents in this country, remonstrated against the proposal.

The Stamp Act, 1765.

[1] Walpole's Mem., ii 70, 220; Bancroft's Hist. of American Revolution ii. 88.

[2] 4 Geo. III. c. 15. Mr. Bancroft regards a measure, introduced by Mr Townshend in the previous session, for lowering some of the prohibitory duties, and making them productive, as the commencement of the plan for the taxation of America; but that measure merely dealt with existing duties. It was not until 1764, that any new issue was raised with the colonies. — Hist. of American Revolution, ii. 102.

[3] March 10th, 1764. Parl. Hist. xv. 1427; Grahame's Hist., iv. 179

Their opinion had been invited by ministers; and, that it might be expressed, a year's delay had been agreed upon. Yet when they petitioned against the bill, the Commons refused to entertain their petitions, under a rule, by no means binding on their discretion, which excluded petitions against a tax proposed for the service of the year.[1] An arbitrary temper and narrow pedantry prevailed over justice and sound policy. Unrepresented communities were to be taxed, — even without a hearing. The bill was passed with little opposition;[2] but the colonists combined to resist its execution. Mr. Pitt had been ill in bed when the stamp act was passed; but no sooner were the discontents in America brought into discussion than he condemned taxation without representation, and counselled the immediate repeal of the obnoxious act. "When in this House," he said, "we give and grant, we grant what is our own. But in an American tax, what do we do? We, Your Majesty's Commons for Great Britain, give and grant to Your Majesty, — what? Our own property? No; we give and grant to Your Majesty, the property of Your Majesty's Commons of America." At the same time, he proposed to save the honor of England by an act declaratory of the general legislative authority of Parliament over the colonies.[3] Lord Rockingham, who had succeeded Mr. Grenville, alarmed by the unanimity and violence of the colonists, readily caught at Mr. Pitt's suggestion. The stamp act was repealed, notwithstanding the obstinate resistance of the king, and his friends, and of Mr. Grenville and the supporters of the late ministry.[4] Mr. Pitt had desired ex-

Repeal of the stamp act.

[1] This monstrous rule, or usage, which set at nought the right of petition on the most important matters of public concern, dates from the Revolution; and was not relinquished until 1842. — Hatsell, Prec., iii. 226; May's Proceedings and Usage of Parliament, 486.

[2] Parl. Hist., xvii. 34. "We might as well have hindered the sun's setting," wrote Franklin. — *Bancroft*, ii. 281.

[3] Parl. Hist., xvi. 93; Life of Lord Chatham, i. 427.

[4] Walpole's Mem., ii. 258, 285, &c.; Rockingham Mem., i. 291–295; ii 250, 294.

pressly to except from the declaratory act the right of taxation without the consent of the colonists; but the Crown lawyers and Lord Mansfield denied the distinction between legislation and the imposition of taxes which that great constitutional statesman had forcibly pointed out; and the bill was introduced without that exception. In the House of Lords, Lord Camden, the only great constitutional lawyer of his age, supported with remarkable power the views of Mr. Pitt; but the bill was passed in its original shape, and maintained the unqualified right of England to make laws for the colonies.[1] In the same session some of the import duties imposed in 1764 were also repealed, and others modified.[2] The colonists were appeased by these concessions; and little regarded the abstract terms of the declaratory act. They were, indeed, encouraged in a spirit of independence by their triumph over the English Parliament; but their loyalty was as yet unshaken.[3]

Mr. Charles Townshend's colonial taxes, 1767.

The error of Mr. Grenville had scarcely been repaired, when an act of political fatuity caused an irreparable breach between the mother country and her colonies. Lord Chatham, by his timely intervention, had saved England her colonies; and now his ill-omened administration was destined to lose them. His witty and accomplished, but volatile and incapable Chancellor of the Exchequer, Mr. Charles Townshend, having lost half a million of his ways and means by an adverse vote of the Commons on the land tax,[4] ventured, with incredible levity, to repeat the disastrous experiment of colonial taxation. The Americans, to strengthen their own case against the stamp act, had drawn a distinction between internal and

[1] 6 Geo. III. c. 11, 12; Parl. Hist., xvi. 163, 177, &c.; Walpole's Mem., ii. 277–298, 304–307, &c.; Rockingham Mem., i. 282–293; Bancroft, ii. 459–473; Chatham Corr., ii. 375.

[2] 6 Geo. III. c. 52.

[3] Stedman's Hist., i. 48, *et seq.*; Bancroft's Hist. of the American Revolution, ii. 523; Burke's Speech on American Taxation; see also Lord Macaulay's Life of Lord Chatham, Essays; Lord Campbell's Lives of the Chief Justices (Lord Camden).

[4] *Supra*, Vol. I. 442

external taxation, — a distinction plausible and ingenious, in the hands of so dexterous a master of political fence as Dr. Franklin,[1] but substantially without foundation. Both kinds of taxes were equally paid by the colonists themselves; and if it was their birthright to be taxed by none but representatives of their own, this doctrine clearly comprehended customs, no less than excise. But, misled by the supposed distinction which the Americans themselves had raised, Mr. Townshend proposed a variety of small colonial customs' duties, — on glass, on paper, on painters' colors, and lastly, on tea. The estimated produce of these paltry taxes amounted to no more than 40,000*l.* Lord Chatham would have scornfully put aside a scheme, at once so contemptible and impolitic, and so plainly in violation of the principles for which he had himself recently contended; but he lay stricken and helpless, while his rash lieutenant was rushing headlong into danger. Lord Camden would have arrested the measure in the Cabinet; but standing alone, in a disorganized ministry, he accepted under protest a scheme, which none of his colleagues approved.[2] However rash the financier, however weak the compliance of ministers, Parliament fully shared the fatal responsibility of this measure. It was passed with approbation, and nearly in silence.[3] Mr. Townshend did not survive to see the mischief he had done; but his colleagues had soon to deplore their error. The colonists resisted the import duties, as they had resisted the stamp act; and, a second time, ministers were forced to recede from their false position. But their retreat was effected awkwardly, and with a bad grace. They yielded to the colonists, so far as to give up the general scheme of import duties; but persisted in continuing the duties upon tea.[4]

All repealed but the tea duties.

[1] Parl. Hist., xvi. 144.

[2] See Lord Camden's Statement. — Parl. Hist., xviii. 1222.

[3] 7 Geo. III. c. 46; Rockingham Mem., ii. 75; Bancroft's Hist. of the American Revolution, iii. 83, *et seq.*

[4] 10 George III. 17; Parl. Hist., xvi. 853; Cavendish Deb., ii. 484.

This miserable remnant of the import duties was not calculated to afford a revenue exceeding 12,000*l*; and its actual proceeds were reduced to 300*l*. by smuggling and the determination of the colonists not to consume an article to which the obnoxious impost was attached. The insignificance of the tax, while it left ministers without justification for continuing such a cause of irritation, went far to secure the acquiescence of the colonists. But their discontents, — met without temper or moderation, — were suddenly inflamed by a new measure, which only indirectly concerned them. To assist the half bankrupt East India Company in the sale of their teas, a drawback was given them, of the whole English duty on shipments to the American plantations.[1] By this concession to the East India Company, the colonists, exempted from the English duty, in fact received their teas at a lower rate than when there was no colonial tax. The Company were also empowered to ship their teas direct from their own warehouses. A sudden stimulus was thus given to the export of the very article, which alone caused irritation and dissension. The colonists saw, or affected to see, in this measure, an artful contrivance for encouraging the consumption of taxed tea, and facilitating the further extension of colonial taxation. It was met by a daring outrage. The first tea-ships which reached Boston were boarded by men disguised as Mohawk Indians, and their cargoes cast into the sea.[2] This being the crowning act of a series of provocations and insults, by which the colonists, and especially the people of Boston, had testified their resentment against the stamp act, the import duties, and other recent measures, the government at home regarded it with just indignation. Every one agreed that

Insignificance of the tea duties.

Drawbacks granted on tea.

Attack upon the tea-ships at Boston, 1773.

[1] 12 Geo. III. c. 60; 13 Geo. III. c. 44. The former of these Acts granted a drawback of three fifths only.

[2] Adams's Works, ii. 322; Bancroft's Hist. of the American Rev., iii. 514-541, &c.

the rioters deserved punishment; and that reparation was due to the East India Company. But the punishment inflicted by Parliament, at the instance of Lord North, was such as to provoke revolt. Instead of demanding compensation, and attaching penalties to its refusal, the flourishing port of Boston was summarily closed: no ship could lade or unlade at its quays; the trade and industry of its inhabitants was placed under an interdict. The ruin of the city was decreed; no penitence could avert its doom; but when the punishment had been suffered, and the atonement made; when Boston, humbled and contrite, had kissed the rod; and when reparation had been made to the East India Company, the king in council might, as an act of grace, remove the fatal ban.[1] It was a deed of vengeance, fitter for the rude arbitrament of an eastern prince, than for the temperate equity of a free state.

Boston Port Act, 1774.

Nor was this the only act of repression. The republican constitution of Massachusetts, cherished by the descendants of the pilgrim fathers, was superseded. The council, hitherto elective, was to be nominated by the Crown; and the appointment of judges, magistrates, and sheriffs, was transferred from the council to the governor.[2] And so much was the administration of justice suspected, that, by another act, accused persons might be sent for trial to any other colony, or even to England.[3] Troops were also despatched to overawe the turbulent people of Massachusetts.

Constitution of Massachusetts superseded.

The colonists, however, far from being intimidated by the rigors of the mother country, associated to resist them. Nor was Massachusetts left alone in its troubles. A congress of delegates from twelve of the colonies was assembled at Philadelphia, by whom the

Resistance of the colonists.

[1] Boston Port Act, 14 Geo. III. c. 19; Parl. Hist., xvii. 1159-1189; Chatham Corr., iv. 342; Rockingham Mem., ii. 238-243; Bancroft's Hist., iii., 565, *et seq.*

[2] 14 Geo. III. c. 45; Parl. Hist., xvii. 1192, 1277, &c.

[3] 14 Geo. III. c. 39; Parl. Hist., xvii. 1199, &c.

recent measures were condemned, as a violation of the rights of Englishmen. It was further agreed to suspend all imports from, and exports to, Great Britain and her dependencies, unless the grievances of the colonies were redressed. Other threatening measures were adopted, which proved too plainly that the stubborn spirit of the colonists was not to be overcome. In the words of Lord Chatham, "the spirit which now resisted taxation in America, was the same spirit which formerly opposed loans, benevolences, and ship-money in England."[1]

Lord Chatham's conciliatory proposition, Feb. 1st, 1775.

In vain Lord Chatham, — reappearing after his long prostration, — proffered a measure of conciliation, repealing the obnoxious acts, and explicitly renouncing imperial taxation, but requiring from the colonies the grant of a revenue to the king. Such a measure might even yet have saved the colonies;[2] but it was contemptuously rejected by the Lords, on the first reading.[3]

Propositions of Lord North and Mr. Burke, Feb. 20th, 1775.

Lord North himself soon afterwards framed a conciliatory proposition, promising that, if the colonists should make provision for their own defence and for the civil government, no imperial tax should be levied. His resolution was agreed to; but, in the present temper of the colonists, its conditions were impracticable.[4] Mr. Burke also proposed other resolutions, similar to the scheme of Lord Chatham, which were rejected by a large majority.[5]

March 22d, 1775.

Outbreak of the civil war, April 19th, 1775.

The Americans were already ripe for rebellion, when an unhappy collision occurred at Lexington between the royal troops and the colonial militia. Blood was shed; and the people flew to arms. The war

[1] Speech, Jan. 20th, 1777. — Parl. Hist., xviii. 154, *n.*

[2] See Lord Mahon's Hist., vi. 43.

[3] Feb. 1st, 1775. — Parl. Hist., xviii. 198.

[4] Parl. Hist., xviii. 319; Chatham Corr., iv. 403; Gibbon's Posthumous Works, i. 490.

[5] Parl. Hist., xviii. 478; Burke's Works, iii. 23.

of independence was commenced. Its sad history and issue are but too well known. In vain Congress addressed a petition to the king, for redress and conciliation. It received no answer. In vain Lord Chatham devoted the last energies of his wasting life[1] to effect a reconciliation, without renouncing the sovereignty of England. In vain the British Parliament, — humbling itself before its rebellious subjects, — repealed the American tea duty, and renounced its claims to imperial taxation.[2] In vain were Parliamentary commissioners empowered to suspend the acts of which the colonists complained, to concede every demand but that of independence, and almost to sue for peace.[3] It was too late to stay the civil war. Disasters and defeat befell the British arms, on American soil; and, at length, the independence of the colonies was recognized.[4]

Petition to the king, Sept. 1st. 1775.

Overtures for peace, 1778.

Such were the disastrous consequences of a misunderstanding of the rights and pretensions of colonial communities, who had carried with them the laws and franchises of Englishmen. And here closes the first period in the constitutional history of the colonies.

We must now turn to another class of dependencies, not originally settled by English subjects, but acquired from other states by conquest or cession. To these a different rule of public law was held to apply. They were dominions of the crown; and governed, according to the laws

Crown Colonies.

[1] Lord Chatham was completely secluded from political and social life, from the spring of 1767 to the spring of 1769; and again, from the spring of 1775 to the spring of 1777.

[2] 28 Geo. III. c. 12; Parl. Hist., xix. 762; Ann. Reg., 1778, 133.

[3] 28 Geo. III. c. 13.

[4] No part of English history has received more copious illustration than the revolt of the American colonies. In addition to the general histories of England, the following may be consulted: — Franklin's Works, Sparks's Life of Washington, Marshall's Life of Washington, Randolph's Mem. of Jefferson, Chalmers' Political Annals, Dr. Gordon's History of the American Revolution, Grahame's History of the United States, Stedman's History, Bancroft's History of the American Revolution.

prevailing at the time of their acquisition, by the king in council.[1] They were distinguished from other settlements as crown colonies. Some of them, however, like Jamaica and Nova Scotia, had received the free institutions of England, and were practically self-governed, like other English colonies. Canada, the most important of this class, was conquered from the French, in 1759, by General Wolfe, and ceded to England, in 1763, by the treaty of Paris. In 1774, the administration of its affairs was intrusted to a council appointed by the crown;[2] but, in 1791, it was divided into two provinces, to each of which representative institutions were granted.[3] It was no easy problem to provide for the government of such a colony. It comprised a large and ignorant population of French colonists, having sympathies with the country whence they sprung, accustomed to absolute government and feudal institutions, and under the influence of a Catholic priesthood. It further comprised an active race of British settlers, speaking another language, professing a different religion, and craving the liberties of their own free land. The division of the provinces was also a separation of races; and freedom was granted to both alike.[4] The immediate objects of this measure were to secure the attachment of Canada, and to exempt the British colonists from the French laws; but it marked the continued adhesion of Parliament to the principles of self-government. In discussing its policy, Mr. Fox laid down a principle, which was destined, after half a century, to become the rule of colonial administration. "I am convinced," said he, "that the only means of retaining distant colonies with advantage, is to enable them to govern themselves."[5] In 1785, representative institutions were given

Free constitutions to crown colonies.

Canada.

[1] Clark's Colonial Law, 4; Mills' Colonial Constitutions, 19, &c.

[2] 14 Geo. III. c. 83.

[3] 31 Geo. III. c. 31; Parl. Hist., xxviii. 1377.

[4] See Lord Durham's description of the two races. — Report, 1839, p. 8–18.

[5] March 6th, 1791; Parl. Hist., xxviii. 1379; Lord J. Russell's Life of Fox, ii. 259; Lord Stanhope's Life of Pitt, ii. 89.

to New Brunswick, and, so late as 1832, to Newfoundland; and thus, eventually, all the British American colonies were as free, in their forms of government, as the colonies which had gained their independence. But the mother country, in granting these constitutions, exercised, in a marked form, the powers of a dominant state. She provided for the sale of waste lands, for the maintenance of the church establishment, and for other matters of internal polity.

Australian colonies.

England was soon compensated for the loss of her colonies in America, by vast possessions in another hemisphere. But the circumstances under which Australia was settled were unfavorable to free institutions. Transportation to the American plantations, commenced in the reign of Charles II., had long been an established punishment for criminals.[1] The revolt of these colonies led to the establishment of penal settlements in Australia. New South Wales was founded in 1788,[2] and Van Diemen's Land in 1825.[3] Penal settlements were necessarily without a constitution, being little more than state prisons. These fair countries, instead of being the homes of free Englishmen, were peopled by criminals sentenced to long terms of punishment and servitude. Such an origin was not promising to the moral or political destinies of Australia; but the attractions which it offered to free emigrants gave early tokens of its future greatness. South Australia and New Zealand, whence convicts were excluded, were afterwards founded, in the same region, without free constitutions. The early political condition of the Australian colonies forms, indeed, a striking contrast to that of the older settlements, to which Englishmen had taken their birthrights. But free emigration developed their resources, and quickly reduced the criminal population to a subordinate element in the society; and, in 1828, local

[1] 4 Geo. I. c. 2; 6 Geo. I. c. 23. Banishment was made a punishment, in 1597, by 39 Elizabeth, c. 4; and transportation, by orders in council, in 1614, 1615, and 1617. — Mills' Colonial Constitutions, 344.

[2] 24 Geo. III. c. 56; Orders in Council, Dec. 6th, 1786.

[3] Mills' Colonial Const., 325.

legislatures were granted to New South Wales and Van Diemen's Land.[1]

Transportation discontinued.

While these colonies were without an adequate population, transportation was esteemed by the settlers, as the means of affording a steady supply of labor; but as free emigration advanced, the services of convicts became less essential to colonial prosperity; and the moral taint of the criminal class was felt more sensibly. In 1838, Sir William Molesworth's committee exposed the enormities of transportation as part of a scheme of colonization; and in 1840 the sending of convicts to New South Wales was discontinued. In Van Diemen's Land, after various attempts to improve the system of convict labor and discipline, transportation was finally abolished in 1854. Meanwhile, an attempt to send convicts to the Cape of Good Hope in 1848, had been resisted by the colonists, and abandoned. In the following year, a new penal settlement was founded in Western Australia.

Free constitutions to Australian colonies.

The discontinuance of transportation to the free colonies of Australia, and a prodigious increase of emigration and productive industry, were preparing them for a further development of freedom at no distant period.

Colonial administration after the American war.

From the period of the American war the home government, awakened to the importance of colonial administration, displayed greater activity, and a more ostensible disposition to interfere in the affairs of the colonies. Until the commencement of the difficulties with America, there had not even been a separate department for the government of the colonies; but the board of trade exercised a supervision, little more than nominal, over colonial affairs. In 1768, however, a third secretary of state was appointed, to whose care the colonies were intrusted. In 1782, the office was discontinued by Lord Rockingham, after the loss of the American provinces; but was revived

[1] 9 Geo. IV. c. 83.

in 1794, and became an active and important department of the state.[1] Its influence was felt throughout the British colonies. However popular the form of their institutions, they were steadily governed by British ministers in Downing Street.

Colonies governed in Downing Street.

In crown colonies, — acquired by conquest or cession, — the dominion of the crown was absolute; and the authority of the colonial-office was exercised directly, by instructions to the governors. In free colonies it was exercised, for the most part, indirectly, through the influence of the governors and their councils. Self-government was there the theory; but in practice, the governors, aided by dominant interests in the several colonies, contrived to govern according to the policy dictated from Downing Street. Just as, at home, the crown, the nobles, and an ascendant party were supreme in the national councils, — so in the colonies, the governors and their official aristocracy were generally able to command the adhesion of the local legislatures.

A more direct interference, however, was often exercised. Ministers had no hesitation in disallowing any colonial acts of which they disapproved, even when they concerned the internal affairs of the colony only. They dealt freely with the public lands, as the property of the crown, often making grants obnoxious to the colonists; and peremptorily insisting upon the conditions under which they should be sold and settled. Their interference was also frequent regarding church establishments and endowments, official salaries and the colonial civil lists. Misunderstandings and disputes were constant; but the policy and will of the home government usually prevailed.

Patronage.

Another incident of colonial administration was that of patronage. The colonies offered a wide field of employment for the friends, connections, and political partisans of the home government. The offices in England,

[1] Mills' Colonial Const., 2–13.

available for securing parliamentary support, fell short of the demand, and appointments were accordingly multiplied abroad. Of these, many of the most lucrative were executed by deputy. The favored friends of ministers, who were gratified by the emoluments of office, were little disposed to suffer banishment in a distant dependency. Infants in the cradle were endowed with colonial appointments, to be executed through life by convenient deputies. Extravagant fees or salaries were granted in Downing Street, and spent in England; but paid out of colonial revenues. Other offices again, to which residence was attached, were too frequently given to men wholly unfit for employment at home, but who were supposed to be equal to colonial service, where indolence, incapacity, or doubtful character might escape exposure.[1] Such men as these, however, were more mischievous in a colony, than at home. The higher officers were associated with the governor in the administration of affairs; the subordinate officers were subject to less control and discipline. In both, negligence and unfitness were injurious to the colonies. As colonial societies expanded, these appointments from home further excited the jealousy of colonists, many of whom were better qualified for office, than the strangers who came amongst them to enjoy power, wealth, and distinction, which were denied to themselves.[2] This jealousy and the natural ambition of the colonists, were among the principal causes which led to demands for more complete self-government. As this feeling was increasing in colonial society, the home government were occupied with arrangements for insuring the permanent maintenance of the civil establish

[1] "As to civil officers appointed for America, most of the places in th gift of the crown have been filled with broken members of Parliament, of bad, if any, principles, — *valets-de-chambre*, electioneering scoundrels, and even livery-servants. In one word, America has been, for many years, made the hospital of England." — *Letter of General Huske, in* 1758; Phillimore's Life of Lord Lyttelton, ii. 604, cited by Lord Mahon.

[2] Long's Hist. of Jamaica, i. 27, 79; Edwards' Hist. of the West Indies, ii. 390; Sir G. Lewis on Dependencies, 278–284; MS. Memorandum by the Right Hon. Edw. Ellice, M. P.

ments out of the colonial revenues. To continue to fill all the offices with Englishmen, and at the same time to call upon the jealous colonists to pay them, was not to be attempted. And accordingly the home government surrendered to the governors all appointments under 200*l.* a year; and to the greater number of other offices, appointed colonists recommended by the governors.[1] A colonial grievance was thus redressed, and increased influence given to the colonists; while one of the advantages of the connection was renounced by the parent state.

New commercial policy affecting the colonies.

While England was entering upon a new period of extended liberties, after the Reform Act, circumstances materially affected her relations with the colonies; and this may be termed the third and last period of colonial history. First, the abolition of slavery, in 1833, loosened the ties by which the sugar colonies had been bound to the mother country. This was followed by the gradual adoption of a new commercial policy, which overthrew the long-established protections and monopolies of colonial trade. The main purpose for which both parties had cherished the connection was lost. Colonists found their produce exposed to the competition of the world; and, in the sugar colonies, with restricted labor. The home consumer independent of colonial supplies, was free to choose his own market, wherever commodities were best and cheapest. The sugars of Jamaica competed with the slave-grown sugars of Cuba; the woods of Canada with the timber of Norway and the Baltic.

Its effect upon the political relations of colonies.

These new conditions of colonial policy seriously affected the political relations of the mother country with her dependencies. Her interference in their internal affairs having generally been connected with commercial regulations, she had now less interest

[1] Earl Grey's Colonial Policy, i. 37–41; Rules and Regulations for Her Majesty's Colonial Service, ch. iii.; Mills' Colonial Constitutions, App. 378.

in continuing it; and they, having submitted to it for the sake of benefits with which it was associated, were less disposed to tolerate its exercise. Meanwhile the growing population, wealth, and intelligence of many of the colonies, closer communications with England, and the example of English liberties, were developing the political aspirations of colonial societies, and their capacity for self-government.

Contumacy of Jamaica repressed.

Early in this period of transition, England twice had occasion to assert her paramount authority; but learned at the same time to estimate the force of local opinion, and to seek in the further development of free institutions the problem of colonial government. Jamaica, discontented after the abolition of slavery, neglected to make adequate provision for her prisons, which that measure had rendered necessary. In 1838, the Imperial Parliament interposed, and promptly supplied this defect in colonial legislation.[1] The local assembly, resenting this act of authority, was contumacious, stopped the supplies, and refused to exercise the proper functions of a legislature. Again Parliament asserted its supremacy. The sullen legislature was commanded to resume its duties; and submitted in time to save the ancient constitution of Jamaica from suspension.[2]

Insurrection in Canada.

At the same period, the perilous state of Canada called forth all the authority of England. In 1837 and 1838, the discontents of Lower Canada exploded in insurrection. The constitution of that province was immediately suspended by the British Parliament; and a provisional government established, with large legislative and executive powers.[3] This necessary act of authority was followed by the reunion of the provinces of Upper and Lower Canada into a single colony, under a governor-general.[4]

Reunion of the provinces

[1] 1 & 2 Vict. c. 67.
[2] 2 & 3 Vict. c. 26; Hans. Deb., 3d Ser., xlvi. 1243; xlvii. 459 &c
[3] 1 & 2 Vict. c. 9; 2 & 3 Vict. c. 53.
[4] 3 & 4 Vict. c. 35.

But while these strong measures were resorted to, the British Government carefully defined the principles upon which parliamentary interposition was justified. "Parliamentary legislation," wrote Lord Glenelg, the colonial minister, "on any subject of exclusively internal concern to any British colony possessing a representative assembly is, as a general rule, unconstitutional. It is a right of which the exercise is reserved for extreme cases, in which necessity at once creates and justifies the exception." [1] Never before had the rights of colonial self-government been so plainly acknowledged.

Right of colonial self-government admitted.

But another principle was about to be established in Canada, which still further enlarged the powers of colonial assemblies, and diminished the influence of the mother country. This principle is known as the doctrine of responsible government. Hitherto the advisers of the governor in this, as in every other colony, were the principal officers appointed by the crown, and generally holding permanent offices. Whatever the fluctuations of opinion in the legislature or in the colony, whatever the unpopularity of the measures or persons of the executive officers, — they continued to direct the councils of the colony. For many years, they had contrived, by concessions, by management and influence, to avoid frequent collisions with the assemblies; but as the principles of representative government were developed, irresponsible rulers were necessarily brought into conflict with the popular assembly. The advisers of the governor pursued one policy, the assembly another. Measures prepared by the executive were rejected by the assembly; measures passed by the assembly were refused by the council, or vetoed by the governor. And whenever such collisions arose, the constitutional means were wanting, for restoring confidence between the contending powers.[2] Frequent dissolutions exasperated the popular

Principle of responsible government.

[1] Parl. Paper, 1839, No. 118, p. 7.

[2] See Lord Durham's Report on Canada, 1839, pp. 27–39.

party, and generally resulted in their ultimate triumph. The hostility between the assembly and permanent and unpopular officers became chronic. They were constantly at issue; and representative institutions, in collision with irresponsible power, were threatening anarchy. These difficulties were not confined to Canada, but were common to all the North American colonies; and proved the incompatibility of two antagonistic principles of government.[1]

Introduction of responsible government into Canada,

After the reunion of the Canadian provinces, a remedy was sought for disagreements between the executive and the legislature, in that principle of ministerial responsibility, which had long been accepted as the basis of constitutional government in England. At first, ministers at home were apprehensive lest the application of that principle to a dependency should lead to a virtual renunciation of control by the mother country.[2] Nor had Canada yet sufficiently recovered from the passions of the recent rebellion, to favor the experiment But arrangements were immediately made for altering the tenure of the principal colonial offices; and in 1847, responsible government was fully established under Lord Elgin.[3] From that time, the governor-generals elected his advisers from that party which was able to command a majority in the legislative assembly, and accepted the policy recommended by them.[4] The same principle was adopted, about the same time, in Nova Scotia;[5] and has since become the rule of administration in other free colonies.[6]

and other colonies.

[1] *Ibid.*

[2] Despatches of Lord J. Russell to Mr. Poulett Thomson, governor-general of Canada, Oct. 14th and 16th, 1839; Parl. Papers, 1848, No. 621.

[3] Earl Grey's Colonial Policy, i. 200–234, 269; Despatches of Lord Elgin; Parl. Papers, 1848.

[4] See Resolutions of the Canadian Parliament, Sept. 3d, 1841; Parl. Paper, 1848, No. 621.

[5] Despatch of Earl Grey to Sir John Harvey, Nov. 3d, 1846; Parl. Paper, 1848, No. 621, p. 8.

[6] Mills' Colonial Constitutions, 201, 205, 209, &c.

By the adoption of this principle, a colonial constitution has become the very image and reflection of parliamentary government in England. The governor, like the sovereign whom he represents, holds himself aloof from and superior to parties; and governs through constitutional advisers, who have acquired an ascendency in the legislature. He leaves contending parties to fight out their own battles; and by admitting the stronger party to his councils, brings the executive authority into harmony with popular sentiments.[1] And as the recognition of this doctrine, in England, has practically transferred the supreme authority of the state from the crown to Parliament and the people, — so in the colonies has it wrested from the governor and from the parent state the direction of colonial affairs. And again, as the crown has gained in ease and popularity what it has lost in power, — so has the mother country, in accepting to the full the principles of local self-government, established the closest relations of amity and confidence between herself and her colonies.

Its results.

There are circumstances, however, in which the parallel is not maintained. The Crown and Parliament have a common interest in the welfare of their country; but England and her colonies may have conflicting interests, or an irreconcilable policy. The crown has, indeed, reserved its veto upon the acts of the colonial legislatures; but its practical exercise has been found scarcely more compatible with responsible government in the colonies than in England. Hence colonies have been able to adopt principles of legislation inconsistent with the policy and interests of the mother country. For example, after England had accepted free trade as the basis of her commercial policy, Canada adhered to protection, and estab-

Conflicting interests of England and colonies.

[1] "The executive council is a removable body, in analogy to the usage prevailing in the British constitution" . . . "it being understood that councillors who have lost the confidence of the local legislature will tender their resignations to the governors." — *Rules and Regulations for the Colonial Service*, ch. ii.

lished a tariff injurious to English commerce.[1] Such laws could not have been disallowed by the home government without a revival of the conflicts and discontents of a former period; and in deference to the principles of self-government, they were reluctantly confirmed.

Democratic constitutions.

But popular principles, in colonial government, have not rested here. While enlarged powers have been intrusted to the local legislatures, those institutions again have been reconstituted upon a more democratic basis. The constitution granted to Canada in 1840, on the reunion of the provinces, was popular, but not democratic.[2] It was composed of a legislative council, nominated by the crown, and of a representative assembly, to which freeholders or roturiers to the amount of 500*l.* were eligible as members. The franchise comprised 40*s.* freeholders, 5*l.* house-owners, and 10*l.* occupiers; but has since been placed upon a more popular basis by provincial acts.[3]

Franchise in Canada.

Democracy has made more rapid progress in the Australian colonies. In 1842, a new constitution had been granted to New South Wales, which, departing from the accustomed model of colonial constitutions, provided for the legislation of the colony by a single chamber.

Australian constitutions.

The constitution of an upper chamber in a colonial society, without an aristocracy, and with few persons of high attainments and adequate leisure, has ever been a difficult problem. Nominated by the governor and consisting mainly of his executive officers, it has failed to exercise a material influence over public opinion; and has been readily overborne by the more popular

Policy of a single chamber.

[1] Report on Colonial Military Expenditure, 1861. Ev. of Mr. Gladstone, 3785; MS. Paper by the Right Hon. Edw. Ellice, M. P.; and see a statement of difficulties experienced by the home government in endeavoring to restrain New Brunswick in the granting of bounties. — Earl Grey's Colonial Policy, i. 279.

[2] 3 & 4 Vict. c. 35; Mills' Colonial Constitutions 184.

[3] Canadian Acts, 16 Vict. c. 153; 22 Vict. c. 82.

assembly. The experiment was, therefore, tried of bringing into a single chamber the aristocratic and democratic elements of colonial government. It was hoped that eminent men would have more weight in the deliberations of the popular assembly, than sitting apart and exercising an impotent veto. The experiment has found favor with experienced statesmen; yet it can scarcely be doubted that it is a concession to democracy. Timely delays in legislation, a cautious review of public measures, resistance to the tyranny of a majority, and the violence of a faction, the means of judicious compromise, are wanting in such a constitution. The majority of a single chamber is absolute.[1]

Constitutions of 1850.

In 1850, it became expedient to divide the vast territories of New South Wales into two, and the southern portion was erected into the new colony of Victoria. This opportunity was taken of revising the constitutions of these colonies, and of South Australia and Van Diemen's Land.[2] The New South Wales model was adhered to by Parliament; and a single chamber was constituted in each of these colonies, of which one third were nominated by the crown, and two thirds elected under a franchise, restricted to persons holding freehold property worth 100*l.*, and 10*l.* householders or leaseholders. A fixed charge was also imposed upon the colonial revenues for the civil and judicial establishments and for religious worship. At the same time, powers were conceded to the governor and legislative council of each colony, with the assent of the queen in council, to alter every part of the constitution so granted.[3] There could be little doubt that the tendency of such societies

[1] The relative advantages of a single and double chamber are fully argued by Earl Grey, Colonial Policy, ii. 96, and by Mr. Mills, Colonial Constitutions, Introd., 57.

[2] This constitution was postponed, as regards Western Australia, until the colony should undertake to pay the charges of its civil government.

[3] 13 & 14 Vict. c. 59; Earl Grey's Colonial Policy, i. App. 422, ii. 86-111; Mills' Colonial Const., 291; Hans. Deb., 3d Ser., cviii. 634; cix 1384, &c.

would be favorable to democracy; and in a few years the limited franchise was changed, in nearly all of these colonies, for universal suffrage and vote by ballot.[1] It was open to the queen in council to disallow these laws, or for Parliament itself to interpose and suspend them;[2] but, in deference to the principle of self-government, these critical changes were allowed to come into operation.

In 1852, a representative constitution was introduced, after some delay, into New Zealand,[3] and, about the same period, into the Cape of Good Hope.[4] New Zealand and Cape of Good Hope.

To conclude this rapid summary of colonial liberties, — it must be added that the colonies have further enjoyed municipal institutions,[5] a free press,[6] and religious freedom and equality. No liberty or franchise prized by Englishmen at home, has been withheld from their fellow-countrymen in distant lands. Other colonial liberties.

Thus, by rapid strides, have the most considerable dependencies of the British crown advanced, through successive stages of political liberty, until an ancient monarchy has become the parent of democratic republics in all parts of the globe. The constitution of the United States is scarcely so democratic as that of Canada, or the Australian colonies. The president's fixed tenure of office and large executive powers, the independent position and Colonial democracy

[1] Colonial Acts. Victoria, Nov. 24th, 1857, 21 Vict. No. 33; South Australia, Jan. 27th, 1858, 21 Vict. No. 12; New South Wales, Nov. 24th, 1858, 22 Vict. No. 22.

[2] Colonial Acts for such purposes were required to be laid before Parliament, for thirty days, before her Majesty's pleasure should be signified in regard to them.

[3] 15 & 16 Vict. c. 72. A previous Act had been passed with this object in 1846, but its operation was suspended in the following year. — Earl Grey's Colonial Policy, ii. 153–158; Mills' Colonial Const., 335; Hans Deb., 3d Ser., cxxi. 922.

[4] Earl Grey, ii. 226–234, App. C. and D.; Cape of Good Hope Papers, presented by command, Feb. 5th, 1850; Mills' Colonial Const., 151.

[5] Earl Grey's Colonial Policy, i. 32, 235, 437; ii. 327; Mills' Colonial Const., 185, &c.; Merivale, Colonization, 1861, 651–656

[6] Earl Grey's Colonial Policy, i. 29.

authority of the senate, and the control of the supreme court, are checks upon the democracy of congress.[1] But in these colonies the nominees of a majority of the democratic assembly, for the time being, are absolute masters of the colonial government. In Canada, the legislative council can offer no effectual resistance; and in Australia even that check, however inadequate, is wanting. A single chamber dictates its conditions to the governor, and indirectly to the parent state. This transition from a state of control and pupilage to that of unrestrained freedom, seems to have been too precipitate. Society, — particularly in Australia, — had scarcely had time to prepare itself for the successful trial of so free a representation. The settlers of a new country were suddenly intrusted with uncontrolled power, before education, property, traditions, and usage had given stability to public opinion. Nor were they trained to freedom, like their English brethren, by many ennobling struggles and the patient exercise of public virtues. But such a transition, more or less rapid, was the inevitable consequence of responsible government, coupled with the power given to colonial assemblies, of reforming their own constitutions. The principle of self-government, once recognized, has been carried out without reserve or hesitation. Hitherto there have been many failures and discouragements in the experiment of colonial democracy; yet the political future of these thriving communities affords far more ground for hope than for despondency.

Colonies have become affiliated states.

England ventured to tax her colonies, and lost them; she endeavored to rule them from Downing Street, and provoked disaffection and revolt. At last, she gave freedom, and found national sympathy and contentment. But, in the mean time, her colonial dependencies have grown into affiliated states. The tie which binds them to her, is one of sentiment, rather than authority. Commercial privileges, on either side, have been abandoned;

[1] De Tocqueville, i. pp. 143, 151, 179.

transportation, — for which some of the colonies were founded, — has been given up; patronage has been surrendered, the disposal of public lands waived by the Crown, and political dominion virtually renounced. In short, their dependence has become little more than nominal, except for purposes of military defence.

Military defence of colonies.

We have seen how, in the earlier history of the colonies, they strove to defend themselves. But during the prolonged hostilities of the French revolutionary war, assaults upon our colonies naturally formed part of the tactics of the enemy, which were met, on our part, by costly naval and military armaments. And after the peace, England continued to garrison her colonies with large military forces, — wholly paid by herself, — and to construct fortifications, requiring still larger garrisons. Wars were undertaken against the natives, as in the Cape of Good Hope and New Zealand, — of which England bore all the cost, and the colonies gained all the profit. English soldiers have further performed the services of colonial police. Instead of taxing her colonies, England has suffered herself to be taxed heavily on their account. The annual military expenditure, on account of the colonies, ultimately reached £3,225,081, of which £1,715,246 was incurred for free colonies, and £1,509,835 for military garrisons and dependencies, maintained chiefly for imperial purposes.[1] Many of the colonies have already contributed towards the maintenance of British troops, and have further raised considerable bodies of militia and volunteers; but Parliament has recently pronounced it to be just that the colonies which enjoy self-government, should undertake the responsibility and cost of their own military defence.[2] To carry this policy into effect must be the work of time. But whenever it may be effected, the last material bond of connection with the

[1] Report of Committee on Colonial Military Expenditure, 1861.

[2] *Ibid.*, and Evidence; Resolution of Commons, Mar. 4, 1862. — Hans. Deb., 3d Ser., clxxv. 1032; Earl Grey's Colonial Policy, i. 265; Mr. Adderley's Letter to Mr. Disraeli on the Relations of England with the Colonies, 1861.

colonies will have been severed; and colonial states, acknowledging the honorary sovereignty of England, and fully armed for self-defence, — as well against herself as others, — will have grown out of the dependencies of the British Empire. They will still look to her, in time of war, for at least naval protection; and, in peace, they will continue to imitate her laws and institutions, and to glory in the proud distinction of British citizenship. On her part, England may well be prouder of the vigorous freedom of her prosperous sons, than of a hundred provinces subject to the iron rule of British pro-consuls. And, should the sole remaining ties of kindred, affection, and honor be severed, she will reflect, with just exultation, that her dominion ceased, not in oppression and bloodshed, but in the expansive energies of freedom, and the hereditary capacity of her manly offspring for the privileges of self-government.

Dependencies unfitted for self-government.

Other parts of the British empire have — from the conditions of their occupation, the relations of the state to the native population, and other circumstances — been unable to participate in the free institutions of the more favored colonies;[1] but they have largely shared in that spirit of enlightened liberality, which, during the last twenty years, has distinguished the administration of colonial affairs.

India.

Of all the dependencies of the British crown, India is the most considerable in territory, in population, in revenue, and in military resources. It is itself a great empire. Originally acquired and governed by a trading company, England was responsible for its administration no further than was implied in the charters and Acts of Parliament, by which British subjects were invested with sovereignty over distant regions.[2] Trade was the first, dominion the secondary object of the company. Early in

The East India Company.

[1] Viz., India, Malta, Gibraltar, Ceylon, Hong Kong, St. Helena, Falklands, Western Australia, Labuan, Sierra Leone, Gambia, Gold Coast.

[2] The first charter was granted in 1600; the first Act concerning the East India Company was passed in 1698, 9 & 10 Will. III. c. 44.

the reign of George III. their territories had become so extended, that Lord Chatham conceived the scheme of claiming them as dominions of the crown.[1] This great scheme, however, dwindled, in the hands of his colleagues, into an agreement with the company to pay £400,000 a year, as the price of their privileges.[2] This tribute was not long enjoyed, for the company, impoverished by perpetual wars, and mal-administration, fell into financial difficulties; and in 1773, were released from this obligation.[3] And in this year, Parliament, for the first time, undertook to regulate the constitution of the government of India.[4] The court of directors, consisting of twenty-four members, elected by the proprietors of India stock, and virtually independent of the government, became the home authority, by whom the governor-general was appointed, and to whom alone he was responsible. An Asiatic empire was still intrusted to a company, having an extensive civil and military organization, making wars and conquests, negotiating treaties, and exercising uncontrolled dominion. A trading company had grown into a corporate emperor. The genius of Clive and Warren Hastings had acquired the empire of the Great Mogul.

But power exercised by irresponsible and despotic rulers was naturally abused; and in 1773, and again in 1780, the directors were placed under the partial control of a secretary of state.[5] Soon afterwards some of the most glaring excesses of Indian misrule were forced upon the notice of Parliament.[6] English statesmen became sensible that the anomalies of a government, so constituted, could no longer be endured. It was not fit that

Abuses of Indian administration, 1781-82.

[1] Lord Mahon's Hist., v. 262; Chatham Corr., iv. 264.

[2] 7 Geo. III. c. 57; 9 Geo. III. c. 24; Parl. Hist., xvi. 350; Walp. Mem., ii. 394, 427, 449; iii. 39–57.

[3] 13 Geo. III. c. 63.

[4] *Ibid.*, c. 64.

[5] Burke's Speech, Works, iv. 115.

[6] See Debates, Feb. 1st and 12th, and May 8th, 1781; April 15th, 1782. Parl. Hist., xxi. 1162, 1182; xxii. 200, 1275; Reports of Secret and Select Committees, 1782 and 1783.

England should suffer her subjects to practise the iniquities of Asiatic rule, without effective responsibility and control. On Mr. Fox and the coalition ministry first devolved the task of providing against the continued oppression and misrule, which recent inquiries had exposed. They grappled boldly with the evils which demanded a remedy. Satisfied that the government of an empire could not be confided with safety or honor to a commercial company, they proposed at once to transfer it to another body. But to whom could such a power be intrusted? Not to the crown, whose influence they had already denounced as exorbitant; not to any department of the executive government, which could become accessory to Parliamentary corruption. The company had been, in great measure, independent of the crown and of the ministers of the day; and the power which had been abused, they now proposed to vest in an independent board. This important body was to consist of seven commissioners, appointed in the first instance, by Parliament, for a term of four years, and ultimately by the crown. The leading concerns of the company were to be managed by eight assistants, appointed first by Parliament, and afterwards by the proprietors of East India stock.[1] It was a bold and hazardous measure, on which Mr. Fox and his colleagues staked their power. Conceived in a spirit of wisdom and humanity, it recognized the duty of the state to redress the wrongs and secure the future welfare of a distant empire; yet was it open to objections which a fierce party contest discolored with exaggeration. The main objections urged against the bill were these: that it violated the chartered rights of the company, that it increased the influence of the crown, and that it invested the coalition party, then having a Parliamentary majority, with a power superior to the crown itself. As regards the first objection, it was vain to contend that Parliament might not lawfully dispossess the company of their dominion over millions of

Mr. Fox's India Bill, 1783.

[1] Mr. Fox's Speech, Nov. 18th, 1783; Parl. Hist., xxiii. 1187.

men, which they had disgraced by fraud, rapine, oppression, cruelty, and bloodshed. They had clearly forfeited the political powers intrusted to them for the public good. A solemn trust, having been flagrantly violated, might justly be revoked. But had they forfeited their commercial privileges? They were in difficulties and debt; their affairs were in the utmost confusion; the grossest mismanagement was but too certainly proved. But such evils in a commercial company, however urgently needing correction, scarcely justified the forfeiture of established rights. The two latter objections were plainly contradictory. The measure could not increase the influence of the crown, and at the same time exalt a party above it. The former was, in truth, wholly untenable, and was relinquished; while the king, the opposition, the friends of the company, and the country, made common cause in maintaining the latter. And assuredly the weakest point was chosen for attack. The bill nominated the commissioners, exclusively from the ministerial party; and intrusted them with all the power and patronage of India, for a term of four years. At a time when corrupt influence was so potent in the councils of the state, it cannot be doubted that the Commissioners would have been able to promote the political interests of their own party. To add to their weight, they were entitled to sit in Parliament. Already the Parliamentary influence of the Company had aroused jealousy; and its concentration in a powerful and organized party naturally excited alarm. However exaggerated by party violence, it was unquestionably a well-founded objection, which ought to have been met and counteracted. It is true that vacancies were to be filled up by the crown, and that the appointment of the commissioners was during good behavior; but, practically, they would have enjoyed an independent authority for four years. It was right to wrest power from a body which should never have been permitted to exercise it, and by whom it had been flagrantly abused; but it was wrong to constitute the new government an in-

strument of party, uncontrolled by the crown, and beyond the immediate reach of that Parliamentary responsibility which our free constitution recognizes as necessary for the proper exercise of authority. The error was fatal to the measure itself, and to the party by whom it was committed.[1]

Mr. Fox's scheme having been overthrown, Mr. Pitt proceeded to frame a measure, in which he dexterously evaded all the difficulties under which his rival had fallen. He left the Company in possession of their large powers; but subjected them to a board of control representing the crown.[2] The Company was now accountable to ministers, in their rule; and ministers, if they suffered wrong to be done, were responsible to Parliament. At the same time, however, power and responsibility were divided; and distracted councils, an infirm executive, and a cumbrous and perplexed administration, were scarcely to be avoided in a double government.[3] The administration of Indian affairs came frequently under the review of Parliament;[4] but this system of double or divided government was continued, on each successive renewal of the privileges of the Company. In 1833, the first great change was effected in the position of the Company. Up to this time, they had enjoyed the exclusive trade with China, and other commercial privileges. This monopoly was now discontinued, and they ceased to be a trading company; but their dominion over India was confirmed for a further period of twenty years.[5] The right of Parliament, however, to legislate for India was then reserved.

Mr. Pitt's India Bill, 1784.

The double government

Later measures.

[1] *Supra*, Vol. I., 66; Parl. Hist., xxiii. 1224, 1255, &c.; Burke's Works v. 1; Adolphus's Hist., iv. 34–65; Massey's Hist., iii. 196–218; Fox Mem. i. 212–221; Lord J. Russell's Life of Fox, ii. 24–48; Lord Stanhope's Life of Pitt, i. 138.

[2] 24 Geo. III. c. 25.

[3] Mr. Fox's Speech, Parl. Hist., xxiv. 1122; Fox Mem., ii. 254; Debates on India Bill of 1858, *passim*.

[4] 28 Geo. III. c. 8; 33 Geo. III. c. 52; 53 Geo. III. c. 155.

[5] 3 & 4 Will. IV. c. 85.

It was the last periodical renewal of the powers of the Company. In 1853, significant changes were made; their powers being merely continued until Parliament should otherwise provide, and their territories being held in trust for the crown. The Court of Directors was reconstituted, being henceforth composed of twelve elected members and six nominees of the crown. At the same time, the council of the Governor-General in India was enlarged, and invested with a more legislative character. The government of India being thus drawn into closer connection with ministers, they met objections to the increase of patronage, which had been fatal to Mr. Fox's scheme, by opening the civil and medical services to competition.[1] This measure prepared the way for a more complete identity between the executive administration of England and India. It had a short and painful trial. The mutiny of the native army in 1857, disclosed the perils and responsibilities of England, and the necessity of establishing a single and supreme authority.

India Bill, 1853.

The double government of Mr. Pitt was at length condemned; the powers and territories of the Company were transferred to the Queen; and the administration of India was intrusted to a Secretary of State, and Council. But this great change could not be accomplished without a compromise; and of the fifteen members of the council, seven were elected by the Board of Directors, and eight appointed by the crown. And again, with a view to restrict the state patronage, cadetships in the engineers and artillery were thrown open to competition.[2]

Government of India transferred to the crown. 1858.

The transfer of India to the crown was followed by a vigorous administration of its vast dominions. Its army was amalgamated with that of England; the constitution of the council in India was placed

Subsequent Indian administration.

[1] 16 & 17 Vict. c. 95. [2] 21 & 22 Vict. c. 106.

[3] 23 & 24 Vict. c. 100 (discontinuing a separate European force in India): 24 & 25 Vict. c. 74; and Parl. Papers, 1860, Nos. 471, 364, &c.

upon a wider basis;[1] the courts of judicature were remodelled;[2] the service enlarged;[3] and the exhausted revenues of the country regenerated. To an empire of subjugated states and Asiatic races, self-government was plainly impossible. But it has already profited by European civilization and statesmanship; and while necessarily denied freedom, its rulers are guided by the principles upon which free states are governed; and its interests are protected by a free English Parliament, a vigilant press, and an enlightened and humane people.

Freedom of the British empire.

Beyond these narrow isles, England has won, indeed, a vast and glorious empire. In the history of the world, no other state has known how to govern territories so extended and remote, and races of men so diverse; giving to her own kindred colonies the widest liberty and ruling, with enlightened equity, dependencies unqualified for freedom. To the Roman, Virgil proudly sang,

> "Tu regere imperio populos, Romane, memento:
> Hæ tibi erunt artes."

To the Englishman may it not be said with even juster pride, "having won freedom for thyself, and used it wisely, thou hast given it to thy children, who have peopled the earth; and thou hast exercised dominion with justice and humanity!"

[1] 24 & 25 Vict. c. [2] *Ibid.*, c. 104. [3] *Ibid.*, c 54.

CHAPTER XVIII.

Improved Spirit of Legislation coincident with Liberty: — Administration of Justice: — Mitigation of the Criminal Code: — Capital and Secondary Punishments: — Prisons: — Police: — The Poor Laws: — Lunatics: — Provisions for the Social Welfare of the People: — Popular Education: — Commercial and Financial Policy: — Activity of Parliament since the Reform Act: — Conclusion.

We have now surveyed the progress of freedom and popular influence, in all the institutions of England. Everywhere we have seen the rights and liberties of the people assured, and closer relations established between the state and the community. The liberal spirit of general legislation has kept pace with this remarkable development of constitutional liberty. While the basis of power was narrow, rulers had little sympathy with the people. The spirit of their rule was hard and selfish; favoring the few at the expense of the many; protecting privileges and abuses by which the governing classes profited, but careless of the welfare of the governed. Responsibility and popular control gradually forced upon them larger views of the public interests; and more consideration for the claims of all classes to participate in the benefits of enlightened government. With freedom there grew a stronger sense of duty in rulers; more enlightenment and humanity among the people; wiser laws, and a milder policy. The asperities of power were tempered; and the state was governed in the spirit which society approved.

Improved spirit of modern legislation.

This improved spirit has displayed itself throughout the wide range of modern legislation; but, in passing beyond the strict limits of constitutional history, we must content

ourselves with a rapid glance at some of its more remarkable illustrations.

Emoluments of office.

No example more aptly illustrates the altered relations of rulers to the people, than the revision of official emoluments. Ministers once grew rich upon the gains of office; and provided for their relatives by monstrous sinecures, and appointments egregiously overpaid. To grasp a great estate out of the public service, was too often their first thought. Families were founded, titles endowed, and broken fortunes repaired, at the public expense. It was asked what an office was worth; not what services were to be rendered. This selfish and dishonest system perished under exposure; but it proved a tedious and unthankful labor to bring its abuses to the light of day. Inquiries were commenced early in the present century; but were followed by few practical results. At that time, "all abuses were freeholds,"[1] which the government did not venture to invade. Mr. Joseph Hume, foremost among the guardians of public interests, afterwards applied his patient industry and fearless public spirit to this work; and, unruffled by discouragements and ridicule, he lived to see its accomplishment. Soon after the Reform Act, ministers of state accepted salaries scarcely equal to the charges of office;[2] sinecures and reversions were abolished; offices discontinued or consolidated; and the scale of official emoluments revised, and apportioned to the duties performed, throughout the public service. The change attested a higher sense of duty in ministers, and increased responsibility to public opinion.

Administration of justice.

The abuses in the administration of justice, which had been suffered to grow and flourish without a check, illustrate the inert and stagnant spirit of the eighteenth century. The noble principles of

[1] This happy phrase is assigned to Richard Bentley, son of Dr. Bentley. — Walpole's Mem., ii. 391.

[2] Reports on Sinecure Offices, 1807, 1810-12, and 1834; Debates on Offices in Reversion Bill, 1807, 1808; Hans. Deb., 1st Ser., ix. 178, 1073, &c.; x.

English law had been expounded by eminent judges and applied to the varying circumstances of society, until they had expanded into a comprehensive system of jurisprudence, entitled to respect and veneration. But however admirable its principles, its practice had departed from the simplicity of former times, and, by manifold defects, went far to defeat the ends of justice. Lawyers, ever following precedents, were blind to principles. Legal fictions, technicalities, obsolete forms, intricate rules of procedure, accumulated. Fine intellects were wasted on the narrow subtleties of special pleading; and clients won or lost causes, — like a game of chess, — not by the force of truth and right, but by the skill and cunning of the players. Heart-breaking delays and ruinous costs were the lot of suitors. Justice was dilatory, expensive, uncertain and remote. To the rich it was a costly lottery; to the poor a denial of right, or certain ruin. The class who profited most by its dark mysteries, were the lawyers themselves. A suitor might be reduced to beggary or madness; but his advisers revelled in the chicane and artifices of a life-long suit, and grew rich. Out of a multiplicity of forms and processes arose numberless fees and well-paid offices. Many subordinate functionaries, holding sinecure or superfluous appointments, enjoyed greater emoluments than the judges of the court; and upon the luckless suitors, again, fell the charge of these egregious establishments. If complaints were made, they were repelled as the promptings of ignorance; if amendments of the law were proposed, they were resisted as innovations. To question the perfection of English jurisprudence was to doubt the wisdom of our ancestors, — a political heresy, which could expect no toleration.

The delays of the Court of Chancery, in the time of Lord Eldon, were a frequent cause of complaint; and formed the subject of Parliamentary inquiry in

Delays in the Court of Chancery.

194, 870, &c.; Romilly's Life, ii. 219, 302; iii. 9; Twiss's Life of Lord Eldon, ii. 116, 225; Reports of Commons on offices held by members, 1830–31, No. 322; 1833, No. 671; Report on Miscellaneous Expenditure, 1847–48, No. 543; and on Public Offices, 1856, No. 368.

both Houses.[1] In 1813, a vice-chancellor was appointed, to expedite the business of the court; but its complex and dilatory procedure remained without improvement. Complaints continued to be made, by Mr. Michael Angelo Taylor, Mr. Williams, and others, until, in 1825, a commission was appointed to inquire into the administration of justice in that court.[2]

Defects of the Common Law Courts.

In 1828, Mr. Brougham exposed the complicated abuses of the courts of common law, and the law of real property. His masterly speech, of six hours, displayed the combined powers of the philosophic jurist, the practised lawyer, the statesman, and the orator.[3] Suggesting most of the law reforms which have since been carried into effect, and some not yet accomplished, it stands a monument to his fame as a lawgiver.[4] Commissions of inquiry were immediately appointed; and, when their investigations were completed, a new era of reform and renovation was commenced. Thenceforth, the amendment of the law was pursued in a spirit of earnestness and vigor. Judges and law officers no longer discountenanced it; but were themselves foremost in the cause of law reform. Lord Brougham, on the woolsack, was able to give effect to some of his own cherished schemes; and never afterwards faltered in the work. Succeeding chancellors followed in his footsteps; and Lord Denman, Lord Campbell, Sir Richard Bethell, and other eminent jurists, labored successfully in the same honorable field of legislation. The work was slow and toilsome, — beset with many difficulties, — and generally unthankful; but it was accomplished. The procedure of the

Law reforms.

[1] Romilly's Life, ii. 368, 386, 392; iii. 13, &c.; Twiss's Life of Lord Eldon, ii. 167, 199.

[2] *Ibid.*, ii. 474, 486, 567; iii. 321, *et seq.*

[3] Feb. 7th, 1828, Hans. Deb., 2d Ser., xviii. 127; Lord Brougham's Speeches, ii. 311.

[4] Acts and Bills of Lord Brougham, by Sir Eardley Wilmot, Intr. xv. *et seq.*; lvi., *et seq.*; lxxx.; Speech of Lord Brougham on Law Reform, May 12th, 1848, Hans. Deb. 3d Ser., xcviii. 877.

court of Chancery was simplified; its judicial establishment enlarged and remodelled; its offices regulated. Its delays were in great measure averted; and its costs diminished. The courts of common law underwent a like revision. The effete Welsh judicature was abolished; the bench of English judges enlarged from twelve to fifteen; the equitable jurisdiction of the court of Exchequer superseded; the procedure of the courts freed from fiction and artifice; the false system of pleading swept away; the law of evidence amended; and justice restored to its natural simplicity. The law of bankruptcy and insolvency was reviewed; and a court established for its administration, with wide general and local jurisdiction. Justice was brought home to every man's door, by the constitution of county courts. Divorce, which the law had reserved as the peculiar privilege of the rich, was made the equal right of all. The ecclesiastical courts were reconstituted; and their procedure and jurisdiction reviewed. A new court of appeal, — of eminent learning and authority, — was found in a judicial committee of the Privy Council; — which, as the court of last resort from India and the colonies, from the ecclesiastical courts and the court of Admiralty, is second only to the House of Lords in the amplitude of its jurisdiction. The antiquated law of real property was re-cast; and provision made for simplifying titles and facilitating the transfer of land. Much was done, and more attempted, for the consolidation of the statutes. Nor have these remarkable amendments of the law been confined to England. Scotland and Ireland, and especially the latter, have shared largely in the work of reformation. Of all the law reforms of this period, indeed, none was so signal as the constitution of the Irish encumbered estates court.

Such have been the more conspicuous improvements of the law, during the last thirty years. Before they had yet been commenced, Lord Brougham eloquently foreshadowed the boast of that sovereign who should have it to say "that he found law dear, and left it cheap; found it a sealed book,

left it a living letter; found it the patrimony of the rich, left it the inheritance of the poor; found it the two-edged sword of craft and oppression, left it the staff of honesty and the shield of innocence." The whole scheme of renovation is not yet complete; but already may this proud boast be justly uttered by Queen Victoria.

Spirit and temper of the judges.

In reviewing the administration of justice, the spirit and temper of the judges themselves, at different periods, must not be overlooked. One of the first acts of George III. was to complete the independence of the judges by providing that their commissions should not expire with the demise of the crown. It was a necessary measure, in consummation of the policy of the Revolution; and, — if unworthy of the courtly adulations with which it was then received, — it was, at least, entitled to approval and respect.[1] The tenure of the judges was now assured; and their salaries were charged permanently on the civil list.

The law had secured their independence of the crown; but the spirit of the times leagued them closely with its authority. No reign was more graced by the learning and accomplishments of its judges. They were superior to every corrupt influence; but all their sympathies and predilections were with power. The enemies of Lord Mansfield asserted "that he was better calculated to fill the office of prætor under Justinian, than to preside as chief criminal judge of this kingdom in the reign of George III."[2] Neither Lord Mansfield himself nor any other judge deserved so grave a censure; but, with the illustrious exception of Lord Camden, he most eminent magistrates of that reign were unfriendly o liberty. Who so allied to the court, so stanch to arbitrary principles of government, so hostile to popular rights and

[1] King's Message, March 3d, 1761; 1 Geo. III. c. 23; Walpole Mem., i. 41; Cook's Hist. of Party, ii. 400. In 1767 the same law was extended to Ireland, on the recommendation of Lord Townshend, the lord-lieutenant Walpole Mem., iii. 109.

[2] Wraxall Mem., ii. 307.

remedial laws, as Lord Mansfield, Lord Thurlow, Lord Loughborough, Lord Eldon, and Lord Ellenborough? The first and last of these so little regarded their independence, in the exercise of the chief criminal judicature of the realm, that they entered the cabinet as ministers of the crown, and identified themselves with the executive government of the day. What further illustration is needed of the close relations of the judgment-seat with power? But no sooner had principles of freedom and responsible government gained ascendency, than judges were animated by independence and liberality. Henceforward they administered justice in the spirit of Lord Camden; and promoted the amendment of the laws, with the enlightenment of statesmen.

The deepest stain upon the policy of irresponsible government is to be found in the history of the criminal law. The lives of men were sacrificed with a reckless barbarity, worthier of an Eastern despot, or African chief, than of a Christian state. The common law was guiltless of this severity; but as the country advanced in wealth, lawgivers grew merciless to criminals. Life was held cheap, compared with property.[1] To hang men was the ready expedient of thoughtless power. From the Restoration to the death of George III., — a period of 160 years, — no less than 187 capital offences were added to the criminal code. The legislature was able, every year, to discover more than one heinous crime deserving of death. In the reign of George II., thirty-three Acts were passed creating capital offences:[2] in the first fifty years of George III., no less than sixty-three.[3] In such a

The criminal code.

Capital punishments

[1] "Penal laws, which are in the hands of the rich, are laid upon the poor; and all our paltriest possessions are hung round with gibbets. — *Goldsmith's Vicar of Wakefield.*

[2] Speech of Sir W. Meredith, 1777; Parl. Hist., xix. 237.

[3] Lord Grenville's Speech, April 2d, 1813, on Sir S. Romilly's Shoplifting Bill; Hans. Deb., 1st Ser., xxv. 525. This excellent speech, however, is scarcely reported in Hansard, but was printed separately by the Capital Punishments Society.

multiplication of offenees all prineiple was ignored ; offenees wholly different in character and degree were eonfounded in the indiscriminating penalty of death. Whenever an offence was found to be increasing, some busy senator called for new rigor,[1] until murder beeame in the eye of the law no greater erime than picking a pocket, purloining a ribbon from a shop, or pilfering a pewter-pot. Such law-makers were as ignorant as they were eruel. Obstinately blind to the failure of their blood-stained laws, they persisted in maintaining them long after they had been condemned by philosophers, by jurists, and by the eommon sense and humanity of the people. Dr. Johnson, — no squeamish moralist, — exposed them ;[2] Sir W. Blaekstone, in whom admiration of our jurisprudence was almost a foible, denouneed them.[3] Beecaria, Montesquieu, and Bentham [4] demonstrated that certainty of punishment was more effectual in the repression of crime, than severity ; but lawgivers were still inexorable. Nor within the walls of Parliament itself, were there wanting humane and enlightened men to protest against the barbarity of our laws. In 1752, the Commons passed a bill to eommute the punishment of felony, in eertain cases, to hard labor in the dockyards ; but it was

[1] Mr. Burke sarcastically observed, that if a country gentleman could obtain no other favor from the government, he was sure to be accommodated with a new felony, without benefit of clergy. Paley justified the same severity to unequal degrees of guilt, on the ground of " the necessity of preventing the repetition of the offence." — *Moral and Political Philosophy*. Book vi. ch. ix.

[2] " Whatever may be urged by casuists or politicians, the greater part of mankind, as they can never think that to pick a pocket and to pierc the heart are equally criminal, will scarcely believe that two malefactors, s different in guilt, can be justly doomed to the same punishment." — *Rambler*, i. 114; Works, iii. 275. In this admirable essay, published in 1751, the restriction of death to cases of murder was advocated.

[3] " It is a kind of quackery in government, and argues a want of solid skill, to apply the same universal remedy, the *ultimum supplicium*, to every case of difficulty." — *Comment*. iv. 15.

[4] Bentham's work, " Théorie des Peines et des Récompenses," appeared in 1811.

not agreed to by the Lords.[1] In 1772, Sir Charles Bunbury passed a bill through the Commons, to repeal some of the least defensible of the criminal statutes; but the Lords refused to entertain it, as an innovation.[2] In 1777, Sir W. Meredith, in resisting one of the numerous bills of extermination, made a memorable speech which still stands out in judgment against his contemporaries. Having touchingly described the execution of a young woman for shoplifting, who had been reduced to want by her husband's impressment, he proceeded: "I do not believe that a fouler murder was ever committed against law, than the murder of this woman by law;" and again: "the true hangman is the member of Parliament; he who frames the bloody law is answerable for the blood that is shed under it."[3] But such words fell unheeded on the callous ears of men intent on offering new victims to the hangman.[4]

Warnings more significant than these were equally neglected. The terrors of the law, far from preventing crime, interfered with its just punishment. Society revolted against barbarities which the law prescribed. Men wronged by crimes, shrank from the shedding of blood, and forebore to prosecute; juries forgot their oaths and acquitted prisoners against evidence; judges recommended the guilty to mercy.[5] Not one in twenty of the sentences was carried into execution. Hence arose uncertainty, — one of the worst defects in criminal jurisprudence. Punishment lost at once its terrors and its example. Criminals were not deterred from crime, when its conse-

Uncertainty of punishment.

[1] Comm. Journ., xxvi. 345; Lords' Journ., xxvii, 661.

[2] Parl. Hist., xvii. 448; Comm. Journ., xxxiii. 695, &c.; Speech of Sir W. Meredith, 1777.

[3] Parl. Hist., xix. 237.

[4] Sir William Meredith said: — "When a member of Parliament brings in a new hanging Bill, he begins with mentioning some injury that may be done to private property, for which a man is not yet liable to be hanged: and then proposes the gallows as the specific and infallible means of cure and prevention."

[5] Blackstone Comm., iv. 15.

quences were a lottery: society could not profit by the sufferings of guilt, when none could comprehend why one man was hung and another saved from the gallows. The law was in the breast of the judge; the lives of men were at the mercy of his temper or caprice.[1] At one assize town, a "hanging judge" left a score of victims for execution; at another, a milder magistrate reprieved the wretches whom the law condemned. Crime was not checked; but, in the words of Horace Walpole, the country became "one great shambles;" and the people were brutalized by the hideous spectacle of public executions.

Such was the state of the criminal law, when Sir Samuel Romilly commenced his generous labors. He entered upon them cautiously. In 1808, he obtained the remission of capital punishment for picking pockets. In 1810, he vainly sought to extend the same clemency to other trifling thefts. In the following year, he succeeded in passing four bills through the Commons. One only — concerning thefts in bleaching grounds — obtained the concurrence of the Lords. He ventured to deal with no crimes, but those in which the sentence was rarely carried into execution; but his innovations on the sacred code were sternly resisted by Lord Eldon, Lord Ellenborough, and the first lawyers of his time. Year after year, until his untimely death, he struggled to overcome the obduracy of men in power. The Commons were on his side; Lord Grenville, Lord Lansdowne, Lord Grey, Lord Holland, and other enlightened peers supported him; but the Lords, under the guidance of their judicial leaders, were not to be convinced. He did much to stir the public sentiment in his cause; but little, indeed, for the amendment of the law.[2]

Sir Samuel Romilly's bills, 1808–1818.

[1] Lord Camden said: — "The discretion of the judge is the law of tyrants. It is always unknown; it is different in different men; it is casual, and depends upon constitution, temper, and passion. In the best, it is oftentimes caprice; in the worst, it is every vice, folly, and passion to which human nature is liable." — *St. Tr.*, viii. 58.

[2] Romilly's Life, ii 303, 315, 325, 333, 383; iii. 95, 233, 331 337; Twiss's Life of Lord Eldon, ii. 119.

His labors were continued, under equal discouragement, by Sir James Mackintosh.[1] In 1819, he obtained a Committee, in opposition to the Government; and in the following year, succeeded in passing three out of six measures which they recommended. This was all that his continued efforts could accomplish. But his philosophy and earnest reasoning were not lost upon the more enlightened of contemporary statesmen. He lived to see many of his own measures carried out; and to mark so great a change of opinion "that he could almost think that he had lived in two different countries, and conversed with people who spoke two different languages."[2]

Sir James Mackintosh, 1819–1823.

Sir Robert Peel was the first minister of the crown who ventured upon a revision of the criminal code. He brought together, within the narrow compass of a few statutes, the accumulated penalties of centuries. He swept away several capital punishments that were practically obsolete; but left the effective severity of the law with little mitigation. Under his revised code upwards of forty kinds of forgery alone were punishable with death.[3] But public sentiment was beginning to prevail over the tardy deliberations of lawyers and statesmen. A thousand bankers, in all parts of the country, petitioned against the extreme penalty of death in cases of forgery;[4] the Commons struck it out of the Government bill; but the Lords restored it.[5]

Sir Robert Peel's criminal law bills, 1824–1830.

With the reform period commenced a new era in criminal legislation. Ministers and law officers now vied with philanthropists, in undoing the unhallowed work of many generations. In 1832, Lord Auckland, Master of the Mint, secured the abolition of capital

Revision of criminal code, 1832–1860.

[1] Hans. Deb., 1st Ser., xxxix. 784, &c.

[2] Mackintosh's Life, ii. 387–396.

[3] 11 Geo. IV. and 1 Will. IV. c. 66.

[4] Presented by Mr. Brougham, May 24th, 1830; Hans. Deb., 2d Ser. xxiv. 1014.

[5] *Ibid.* xxv 838.

punishment for offences connected with coinage; Mr. Attorney-general Denman exempted forgery from the same penalty, — in all but two cases, to which the Lords would not assent; and Mr. Ewart obtained the like remission for sheep-stealing, and other similar offences. In 1833, the Criminal Law Commission was appointed, to revise the entire code. While its labors were yet in progress, Mr. Ewart, — ever foremost in this work of mercy, — and Mr. Lennard, carried several important amendments of the law.[1] The commissioners recommended numerous other remissions, which were promptly carried into effect by Lord John Russell in 1837. Even these remissions, however, fell short of public opinion, which found expression in an amendment of Mr. Ewart, for limiting the punishment of death to the single crime of murder. This proposal was then lost by a majority of one;[3] but has since, by successive measures, been accepted by the legislature; — murder alone, and the exceptional crime of treason, having been reserved for the last penalty of the law.[4] Great indeed, and rapid, was this reformation of the criminal code. It was computed that, from 1810 to 1845, upwards of 1,400 persons had suffered death for crimes, which had since ceased to be capital.[5]

While these amendments were proceeding, other wise provisions were introduced into the criminal law. In 1834, the barbarous custom of hanging in chains was abolished. In 1836, Mr. Ewart, after a contention of many years, secured to prisoners, on trial for felony, the just privilege of being heard by counsel, which the cold cruelty of our criminal jurisprudence had hitherto denied them.[6] In the

1 In 1833, 1834, and 1835.

2 Second Report, p. 33.

3 Hans. Deb., 3d Ser., xxxviii. 908–922.

4 24 & 25 Vict. c. 100.

5 Report of Capital Punishments Society, 1845.

6 This measure had first been proposed in 1824 by Mr. George Lamb. See Sydney Smith's admirable articles upon this subject. — *Works*, ii. 259, iii. 1.

same year, Mr. Aglionby broke down the rigorous usage which had allowed but forty-eight hours to criminals under sentence of death, for repentance or proof of innocence. Nor did the efforts of philanthropists rest here. From 1840, Mr. Ewart, supported by many followers, pressed upon the Commons, again and again, the total abolition of capital punishment. This last movement failed, indeed; and the law still demands life for life. But such has been the sensitive — not to say morbid — tenderness of society, that many heinous crimes have since escaped this extreme penalty; while uncertainty has been suffered to impair the moral influence of justice.

Secondary punishments.

While lives were spared, secondary punishments were no less tempered by humanity and Christian feeling. In 1816, the degrading and unequal punishment of the pillory was confined to perjury; and was, at length, wholly condemned in 1837.[1]

Transportation.

In 1838, serious evils were disclosed in the system of transportation: the penal colonies protested against its continuance: and it was afterwards, in great measure, abandoned. Whatever the objections to its principle, however grave the faults of its administration, — it was, at least in two particulars, the most effective secondary punishment hitherto discovered. It cleansed our society of criminals; and afforded them the best opportunity of future employment and reformation. For such a punishment no equivalent could readily be found.[2] Imprisonment became nearly the sole resource of the state; and how to punish and reform criminals, by prison discipline, was one of the most critical problems of the time.

Prisons.

The condition of the prisons, in the last century, was a reproach to the state and to society. They were

[1] 56 Geo. III. c. 138; 1 Vict. c. 23. In 1815 the Lords rejected a Bill for its total abolition. — Romilly's Life, iii. 144, 166, 189.

[2] Reports of Sir W. Molesworth's Committee, 1837, No. 518; 1838, No. 669. Bentham's "Théorie des Peines," &c.; Dr. Whately's Letters to Earl Grey; Reply of Colonel Arthur; Innes on Home and Colonial Convict Management, 1842.

damp, dark, and noisome: prisoners were half-starved on bread and water, clad in foul rags, and suffered to perish of want, wretchedness, and jail-fever. Their sufferings were aggravated by the brutality of tyrannous jailers and turnkeys, — absolute masters of their fate. Such punishment was scarcely less awful than the gallows, and was inflicted in the same merciless spirit. Vengeance and cruelty were its only principles: charity and reformation formed no part of its scheme. Prisons without separation of sexes, without classification of age or character, were schools of crime and iniquity. The convicted felon corrupted the untried and perhaps innocent prisoner; and confirmed the penitent novice in crime. The unfortunate, who entered prison capable of moral improvement, went forth impure, hardened, and irreclaimable.

Such were the prisons which Howard visited; and such the evils he exposed. However inert the legislature, it was not indifferent to these disclosures; and attempts were immediately made to improve the regulation and discipline of prisons.[1] The cruelty and worst evils of prison life were gradually abated. Philanthropists penetrated the abodes of guilt; and prisons came to be governed in the spirit of Howard and Mrs. Fry. But, after the lapse of half a century, it was shown that no enlarged system had yet been devised to unite condign punishment with reformation: adequate classification, judicious employment, and instruction were still wanting.[2] The legislature, at length, applied itself to the systematic improvement of prisons. In 1835, inspectors were appointed to correct abuses, and insure uniformity of management.[3] Science and humanity labored together to devise a punishment, calculated at once to deter

[1] Two bills were passed in 1774, and others at later periods; and see Reports of Commons' Committees on Jails, 1819, 1822; Sydney Smith's Works, ii. 196, 244.

[2] Five Reports of Lords' Committee, 1835 (Duke of Richmond), on Jails and Houses of Correction.

[3] 5 & 6 Will. IV. c. 38.

from crime, and to reform criminals. The magistracy, throughout the country, devoted themselves to this great social experiment. Vast model prisons were erected by the state: costly jails by counties, — light, airy, spacious and healthful. Physical suffering formed no part of the scheme. Prisoners were comfortably lodged, well fed and clothed, and carefully tended. But a strict classification was enforced: every system of confinement — solitary, separate, and silent — was tried: every variety of employment devised. While reformation was sought in restraints and discipline, in industrial training, in education and spiritual instruction, — good conduct was encouraged by hopes of release from confinement, under tickets-of-leave, before the expiration of the sentence. In some cases penal servitude was followed by transportation; in others it formed the only punishment. Meanwhile, punishment was passing from one extreme to another. It was becoming too mild and gentle to deter from crime; while hopes of reformation were too generally disappointed. Further experiments may be more complete; but crime is an intractable ill, which has baffled the wisdom of all ages. Men born of the felon type, and bred to crime, will ever defy rigor and frustrate mercy. If the present generation have erred, its errors have been due to humanity and Christian hopefulness of good. May we not contrast them proudly with the wilful errors of past times, — neglect, moral indifference, and cruelty?

Nor did the state rest satisfied with the improvement of prisons; but, alive to the peculiar needs and dangers of juvenile delinquents, and the classes whence they sprung, it provided for the establishment of reformatory and industrial schools, in which the young might be spared the contamination and infamy of a jail, and trained, if possible, to virtue.[1] Reformatories.

Our ancestors, trusting to the severity of their punishments, for the protection of life and property, took Police

[1] 17 & 18 Vict. c. 86, &c.

little pains in the prevention of crime. The metropolis was left to the care of drunken and decrepit watchmen, and scoundrel thief-takers, — companions and confederates of thieves.[1] The abuses of such a police had long been notorious, and a constant theme of obloquy and ridicule. They had frequently been exposed by Parliamentary Committees; but it was not until 1829, that Mr. Peel had the courage to propose his new metropolitan police. This effective and admirable force has since done more for the order and safety of the metropolis, than a hundred executions every year, at the Old Bailey. A similar force was afterwards organized in the city of London; and every considerable town throughout the realm was prompt to follow a successful example. The rural districts, however, and smaller boroughs, were still without protection. Already, in 1836, a constabulary of rare efficiency had been organized in Ireland; but it was not until 1839 that provision was made for the voluntary establishment of a police in English counties and boroughs. A rural police was rendered the more necessary by the efficient watching of large towns; and at length, in 1856, the support of an adequate constabulary force was required of every county and borough.

Summary jurisdiction.

And further, criminals have been brought more readily to justice, by enlargements of the summary jurisdiction of magistrates. A principle of criminal jurisprudence which excludes trial by jury is to be accepted with caution; but its practical administration has been unquestionably beneficial. Justice has been administered well and speedily; while offenders have been spared a long confinement prior to trial, and the innocent have had a prompt acquittal. The like results have also been attained by an increase of stipendiary magistrates, in the metropolis and elsewhere, by the institution of the Central Criminal Court, and by more frequent assizes.

[1] Wraxall's Mem., i. 329; Reports of Commons' Comm., 1812, 1816. 1817, 1822, and 1828.

The stern and unfeeling temper which had dictated the penal code, directed the discipline of fleets and armies. Life was sacrificed with the same cruel levity; and the lash was made an instrument of torture. This barbarous rigor was also gradually relaxed, under the combined influence of humanity and freedom. Flogging in the navy and army.

Equally wise and humane were numerous measures for raising the moral and social condition of the people. And first in importance was an improved administration of relief to the poor. Since the reign of Elizabeth, the law had provided for the relief of the destitute poor of England. This wise and simple provision, however, had been so perverted by ignorant administration that, in relieving the poor, the industrial population of the whole country was being rapidly reduced to pauperism, while property was threatened with no distant ruin. The system which was working this mischief assumed to be founded upon benevolence; but no evil genius could have designed a scheme of greater malignity, for the corruption of the human race. The fund intended for the relief of want and sickness, of age and impotence, was recklessly distributed to all who begged a share. Every one was taught to look to the parish, and not to his own honest industry, for support. The idle clown, without work, fared as well as the industrious laborer who toiled from morn till night. The shameless slut, with half a dozen children, — the progeny of many fathers, — was provided for as liberally as the destitute widow and her orphans. But worse than this, — independent laborers were tempted and seduced into the degraded ranks of pauperism, by payments freely made in aid of wages. Cottage rents were paid, and allowances given according to the number of a family. Hence thrift, self-denial, and honest independence were discouraged. The manly farm laborer, who scorned to ask for alms, found his own wages artificially lowered, while improvidence was cherished and rewarded by the parish. He could barely The poor-laws.

live without incumbrance; but boys and girls were hastening to church, — without a thought of the morrow, — and rearing new broods of paupers, to be maintained by the overseer. Who can wonder that laborers were rapidly sinking into pauperism, without pride or self-respect? But the evil did not even rest here. Paupers were actually driving other laborers out of employment, — that labor being preferred which was partly paid out of rates, to which employers were forced to contribute. As the cost of pauperism, thus encouraged, was increasing, the poorer ratepayers were themselves reduced to poverty. The soil was ill-cultivated by pauper labor, and its rental consumed by parish rates. In a period of fifty years, the poor-rates were quadrupled; and had reached, in 1833, the enormous amount of 8,600,000*l*. In many parishes they were approaching the annual value of the land itself.

The new poor-law, 1834.

Such evils as these demanded a bold and thorough remedy; and the recommendations of a masterly commission of inquiry were accepted by the first reformed Parliament in 1834, as the basis of a new poor law. The principle was that of the Act of Elizabeth, — to confine relief to destitution; and its object, to distinguish between want and imposture. This test was to be found in the workhouse. Hitherto pauperism had been generally relieved at home, — the parish workhouse being the refuge for the aged, for orphans, and others, whom it suited better than out-door relief. Now out-door relief was to be withdrawn altogether from the able-bodied, whose wants were to be tested by their willingness to enter the workhouse. This experiment had already been successfully tried in a few well-ordered parishes, and was now generally adopted. But instead of continuing ill-regulated parish workhouses, several parishes were united, and union workhouses established, common to them all. The local administration of the poor was placed under elected boards of guardians; and its general superintendence under a

central board of commissioners in London. A change so sudden in all the habits of the laboring classes, could not be introduced without discontents and misconception. Some of the provisions of the new law were afterwards partially relaxed; but its main principles were carried into successful operation. Within three years the annual expenditure for the relief of the poor was reduced to the extent of three millions. The plague of pauperism was stayed; and the English peasantry rescued from irretrievable corruption. The full benefits of the new poor law have not yet been realized; but a generation of laborers has already grown up in independence and self-respect; and the education and industrial training of children in the workhouses have elevated a helpless class, formerly neglected and demoralized.[1]

Poor-laws of Scotland.

Of Ireland.

While England had been threatened with ruin, from a reckless encouragement of pauperism, the law of Scotland had made no adequate provision for the support of the destitute poor. This error, scarcely more defensible, was corrected in 1845. But worst of all was the case of Ireland, where there was absolutely no legal provision for the destitute.[2] The wants of the peasantry were appalling: two millions and a half were subsisting, for a part of every year, on charity. The poor man shared his meal with his poorer neighbor; and everywhere the vagrant found a home. To approach so vast a mass of destitution, and so peculiar a condition of society, was a hazardous experiment. Could property bear the burden of providing for such multitudes? Could the ordinary machinery of poor-law administration safely deal with them? The experiment was tried in 1838, — not without serious misgivings, — and it succeeded. The burden, indeed, was

[1] Extracts of information collected, 1833; Report of Commissioners of Inquiry, 1834; Debates in Lords and Commons, April 17th and July 21st, 1834; Nicholls' Hist. of the Poor Law, &c.

[2] 3d Report of Commissioners on the Poorer Classes in Ireland, 1836 p. 25, &c.

often ruinous to the land, and the workhouse was peculiarly repugnant to the Irish peasantry; but the operation of the new law was facilitated by the fearful famine of 1846, and has since contributed, with other causes, to the advancing prosperity of Ireland. The poor-law legislation of this period was conceived in a spirit of enlightened charity: it saved England from pauperism, and the poor of Scotland and Ireland from destitution.

Lunatics.

The same beneficence has marked recent legislation for the care of lunatics. Within the wide range of human suffering, no affliction so much claims pity and protection as insanity. Rich and poor are stricken alike; and both are equally defenceless. Treated with care and tenderness, it is sad enough; aggravated by neglect and cruelty, it is unspeakably awful. To watch over such affliction, to guard it from wrong and oppression, to mitigate its sufferings, and, if possible, to heal it, — is the sacred office of the state. But, until a period comparatively recent, this office was grievously neglected. Rich patients were left in charge of keepers, in their own homes, or in private asylums, without control or supervision; the poor were trusted to the rude charge of their own families, or received into the workhouse with other paupers. Neglect, and too often barbarity were the natural results. The strong may not be safely trusted with unrestrained power over the weak. The well-paid keeper, the pauper family, the workhouse matron, could all tyrannize over helpless beings bereft of reason. Sad tales were heard of cruelty committed within walls, to which no watchful guardian was admitted; and idiots were suffered to roam at large, the sport of idle jests or worse brutality.

A few charitable asylums had been founded, by private or local munificence, for the treatment of the insane;[1] but it was not until the present century that county and borough lunatic asylums began to be established; nor until

[1] *E. g.* Bethlem Hospital, in 1547; St. Peter's Hospital, Bristol, in 1697; Bethel Hospital, Norwich, in 1713; St. Luke's Hospital, in 1751.

after the operation of the new poor law, that their erection was rendered compulsory.[1] At the same time, provision was made for the inspection of asylums; and securities were taken against the wrongful detention or mismanagement of lunatics. Private asylums are licensed; every house tenanted by the insane is subjected to visitation; and the care of all lunatics is intrusted to commissioners.[2] The like provision has also been made for the care of lunatics in Scotland and Ireland.[3] Two principles were here carried out, — the guardianship of the state, and the obligation of property to bear the burden of a liberal treatment of the lunatic poor. Both are no less generous than just; and the resources of medical science and private charity have more than kept pace with the watchfulness of the state, in alleviating the sufferings of the insane.

Labor in factories, mines, &c.

In other cases, the state has also extended its generous protection to the weak, — even where its duty was not so clear. To protect women and children from excessive or unsuitable labor, it has ventured to interfere with husband and wife, parent and child, laborer and employer, — with free labor and wages, production and profits. The first Sir Robert Peel had induced the legislature to interfere for the preservation of the health and morals of factory children.[4] But to the earnest philanthrophy of Mr. Sadler and Lord Ashley, is due their first protection from excessive labor. It was found that children were doomed to immoderate toil in factories, by the cupidity of parents; and young persons and females accustomed to hours of labor, injurious to health and character. The state stretched forth its arm to succor them. The employment of children of tender years in factories was prohibited; the labor of the young, of both sexes under eighteen,

1 In 1845; 8 & 9 Vict. c. 126.
2 8 & 9 Vict. c. 100, &c.
3 9 & 10 Vict. c. 115, &c.: 20 & 21 Vict. c. 71.
4 In 1802 and 1819; Acts 42 Geo. III. c. 73; 59 Geo. III. c. 66, &c.

and of all women was subjected to regulation; an inspection of factories was instituted; and provision made for the education of factory children.[1] The like parental care was extended to other departments of labor, — to mines,[2] and bleaching works,[3] and even to the sweeping of chimneys.[4]

Measures for the improvement of the working-classes.

The state has further endeavored to improve the social condition of the working classes, by providing for the establishment of savings' banks and provident societies, of schools of design, of baths and wash-houses, of parks and places of recreation; by encouraging the construction of more suitable dwellings, by the supervision of common lodging-houses, — and by measures of sanitary improvement; the benefits of which, though common to all classes, more immediately affect the health and welfare of the laboring multitudes. In this field, however, the state can do comparatively little; it is from society, — from private benevolence and local activity, that effectual aid must be sought for the regeneration of the poorer classes. And this great social duty has fallen upon a generation already awakened to its urgency.

Popular education.

Among the measures most conducive to the moral and social improvement of the people, has been the promotion of popular education. That our ancestors were not insensible to the value of extended education, is attested by the grammar-schools and free or charity-schools in England, and by the parochial schools of Scotland. The state, however, inert and indifferent, permitted endowments for the good of society to be wasted and misapplied. From the latter end of last century much was done by private zeal and liberality for the education of the poor, but the state stirred not.[5] It was reserved for Mr. Brougham, in 1816,

1 3 & 4 Will. IV. c. 103; 7 Vict. c. 15, &c.
2 5 & 6 Vict. c. 99.
3 23 & 24 Vict. c. 78.
4 4 & 5 Will. IV. c. 35, &c.
5 See Porter's Progress of the Nation, 690–699.

to awaken Parliament to the ignorance of the poor; and to his vigilance was it due, that many educational endowments were restored to the uses for which they were designed. Again, in 1820, he proposed a scheme for the systematic education of the poor.[1] To the general education of the people, however, there was not only indifference, but repugnance. The elevation of the lower grades of society was dreaded, as dangerous to the state. Such instruction as impressed them with the duty of contentment and obedience might be well; but education which should raise their intelligence and encourage freedom of thought, would promote democracy, if not revolution. It was right that the children of the poor should be taught the church catechism: it was wrong that they should learn to read newspapers.[2] So long as this feeling prevailed, it was vain to hope for any systematic extension of secular education; but the church and other religious bodies were exerting themselves earnestly, in their proper sphere of instruction. In their schools religious teaching was the primary object; but great advances were also made in the general education of the poor. Meanwhile, the increasing prosperity of the country was rapidly developing the independent education of the children of other classes, who needed no encouragement or assistance. As society advanced, it became more alive to the evils of ignorance; and in a reformed Parliament, the jealousy of popular education was speedily overcome.

In Ireland, as we have seen, a broad scheme of national education was introduced, in 1831, on the principle of "a combined literary, and a separate religious education."[3] In Great Britain, however, there were obstacles to any such system of national education. In the schools of the church, and of dissenters, re-

Obstacles to any scheme of national education.

[1] Hans. Deb., 2d Ser., ii. 49; Harwood's Mem. of Lord Brougham, 124 161.

[2] See Lord Cockburn's Life of Jeffrey, i. 68; Porter's Progress, 694

[3] *Supra*, p. 455.

ligious teaching was the basis of education. The patrons of both were jealous of one another, resentful of interference, and unwilling to coöperate in any combined scheme of national education. The church claimed the exclusive right of educating the people; dissenters asserted an equal title to direct the education of the children of their own sects. Both parties were equally opposed to any scheme of secular education, distinct from their own religious teaching. Hence the government was obliged to proceed with the utmost caution. Its connection with education was commenced in 1834, by a small parliamentary grant, in aid of the building of school-houses. The administration of this fund was confided to the Treasury, by whom it was to be distributed, through the National School Society, representing the church, — and the British and Foreign School Society, to whose schools children of all religious denominations were admitted. This arrangement was continued until 1839; when Lord Melbourne's government vested the management of the education funds in a Committee of Privy Council. This change was effected, in contemplation of a more comprehensive scheme, by which aid should be given directly to schools connected with the church and other religious bodies. The church was alarmed, lest her own privileges should be disturbed; many of the conservative party were still adverse, on political grounds, to the extension of education; and the government scheme was nearly overthrown. The annual grant met with strenuous resistance; and was voted in the Commons by a bare majority of two.[1] The Lords, coming to the aid of the church and their own party, hastened to condemn the new scheme, in an address to the Crown.[2] Their lordships, however, received a courteous rebuke from the throne;[3] and the scheme was vigorously carried out. Despite of jealousies and distrust, the operations of the Committee of Privy Coun-

Parliamentary grants in aid of education.

1 Hans. Deb., 3d Ser., xlviii. 229, *et seq.*

2 *Ibid.*, 1332.

3 *Ibid.*, xlix. 128; Ann. Reg., 1839, 171.

all were speedily extended. Society was awakened to the duty of educating the people; local liberality abounded; the rivalry of the church and dissenters prompted them to increased exertions; and every year larger demands were made upon the public fund, until, in 1860, the annual grant amounted to nearly 700,000*l.*

However such a system may fall short of a complete scheme of national education, embracing the poorest and most neglected classes, it has given an extraordinary impulse to popular education; and bears ample testimony to the earnestness of the state in promoting the social improvement of the people.

Let us now turn to the material interests of the country; its commerce, its industry, its productive energies. How were these treated by a close and irresponsible government? and how by a government based upon public opinion, and striving to promote the general welfare and happiness of the people? Our former commercial policy was founded on monopolies, and artificial protections and encouragements, — maintained for the benefit of the few, at the expense of the many. The trade of the East was monopolized by the East India Company; the trade of the Mediterranean by the Levant Company;[1] the trade of a large portion of North America by the Hudson's Bay Company.[2] The trade of Ireland and the colonies was shackled for the sake of English producers and manufacturers. Every produce and manufacture of England was protected, by high duties or prohibitions, against the competition of imported commodities of the like nature. Many exports were encouraged by bounties and drawbacks. Every one sought protection or encouragement for himself, — utterly regardless of the welfare of others. The protected interests were favored by the state, while the whole community suffered from prices artificially raised and industry unnaturally disturbed. This

Commercial Policy.

[1] This Company was wound up in 1826. — 6 Geo IV. c. 33.

[2] The charter of this Company expired in 1859.

selfish and illiberal policy found support in erroneous doctrines of political economy; but its foundation was narrow self-interest. First one monopoly was established, and then another, until protected interests dominated over a Parliament in which the whole community were unrepresented. Lord North and Mr. Pitt, generally commanding obedient majorities, were unable to do justice to the industry of Ireland, in opposition to English traders.[1] No power short of rebellion could have arrested the monstrous corn bill of 1815, which landowners, with one voice, demanded. But political science and liberty advanced together: the one pointing out the true interests of the people, the other insuring their just consideration.

Free trade.

It was not until fifty years after Adam Smith had exposed what he termed "the mean and malignant expedients of the mercantile system," that this narrow policy was disturbed. Mr. Huskisson was the first minister after Mr. Pitt, who ventured to touch protected interests. A close representation still governed; but public opinion had already begun to exercise a powerful influence over Parliament; and he was able to remove some protections from the silk and woollen trades, to restore the right of free emigration to artisans, and to break in upon the close monopoly of the navigation laws. These were the beginnings of free trade; but a further development of political liberty was essential to the triumph of that generous and fruitful policy. A wider representation wrested exclusive power from the hands of the favored classes; and monopolies fell, one after another, in quick succession. The trade of the East was thrown open to the free enterprise of our merchants; the productions of the world were admitted, for the consumption and comfort of our teeming multitudes; exclusive interests in shipping, in the colonies, in commerce and manufactures, were made to yield to the public good. But above all, the most baneful of monopolies, and the most powerful of pro-

[1] *Supra*, p. 496.

tected interests, were overborne. The lords of the soil, once dominant in Parliament, had secured to themselves a monopoly in the food of the people. To insure high rents, it had been decreed that multitudes should hunger. Such a monopoly was not to be endured; and so soon as public opinion had fully accepted the conclusions of science, it fell before enlightened statesmen and a popular Parliament.

The fruits of free trade are to be seen in the marvellous development of British industry. England will ever hold in grateful remembrance the names of the foremost promoters of this new policy, — of Huskisson, Poulett, Thomson, Hume, Villiers, and Labouchere, — of Cobden and Bright, — of Peel and Gladstone; but let her not forget that their fruitful statesmanship was quickened by the life of freedom.

The financial policy of this period was conceived in the same spirit of enlightened liberality, and regarded no less the general welfare and happiness of the people. Industry, while groaning under protection, had further been burdened by oppressive taxes, imposed simply for purposes of revenue. It has been the policy of modern finance to dispense with duties on raw materials, on which the skill and labor of our industrious artisans is exercised. Free scope has been given to productive industry. The employment and comfort of the people have been further encouraged by the removal or reduction of duties on manufactured articles of universal use, — on glass, on bricks and tiles, on soap and paper, and hundreds of other articles. Financial policy.

The luxuries of the many, as well as their food, have also been relieved from the pressure of taxation. Tea, sugar, coffee, cocoa, — nay, nearly all articles which contribute to the comfort and enjoyment of daily life, — have been placed within reach of the poorest.[1] And among financial changes conceived in the interest of the whole community, the remarkable penny postage of Sir Rowland Hill deserves an

[1] In 1842, the customs' tariff embraced 1163 articles; in 1860, it comprised less than fifty, of which fifteen contributed nearly the whole revenue

honorable place. Notwithstanding extraordinary reductions of taxation, the productive energies of the country, encouraged by so liberal a policy, have more than made good the amount of these remissions. Tax after tax has been removed; yet the revenue — ever buoyant and elastic — has been maintained by the increased productiveness of the remaining duties. This policy — the conception of Sir Henry Parnell — was commenced by Lord Althorp, boldly extended by Sir Robert Peel, and consummated by Mr Gladstone.

To insure the safe trial of this financial experiment, Sir Robert Peel proposed a property tax, in time of peace, to fall exclusively on the higher and middle classes. It was accepted; and marks, no less than other examples, the solicitude of Parliament for the welfare of the many, and the generous spirit of those classes who have most influence over its deliberations. The succession duty, imposed some years later, affords another example of the self-denying principles of a popular Parliament. In 1796, the Commons — ever ready to mulct the people at the bidding of the minister, yet unwilling to bear their own proper burden — refused to grant Mr. Pitt such a tax upon their landed property. In 1853, the reformed Parliament, intent upon sparing industry, accepted this heavy charge from Mr. Gladstone.

Vast increase of expenditure.

The only unsatisfactory feature of modern finance has been the formidable and continuous increase of expenditure. The demands upon the Exchequer — apart from the fixed charge of the public debt — were nearly doubled during the last ten years of this period.[1] Much of this serious increase was due to the Russian, Chinese, and Persian wars, to the vast armaments and unset-

[1] In 1850, the estimated expenditure was 50,763,583*l.*; in 1860, it amounted to 73,534,000*l.* The latter amount, however, comprised 4,700,000*l.* for the collection of the revenue, which had not been brought into the account until 1856. In the former year the charge of the public debt was 28,105,000*l.*; in the latter, 26,200,000*l.* Hence an expenditure of 22,658,583*l* at one period, is to be compared with 42,634,000*l.* at the other.

tled policy of foreign states, to the proved deficiencies of our military organization, to the reconstruction of the navy, and to the greater costliness of all the equipments of modern warfare. Much, however, was caused by the liberal and humane spirit of modern administration. While the utmost efficiency was sought in fleets and armies, the comforts and moral welfare of our seamen and soldiers were promoted, at great cost to the state. So, again, large permanent additions were made to the civil expenditure, by an improved administration of justice, a more effective police, extended postal communications, the public education of the people, and the growing needs of civilization throughout a powerful and wide-spread empire. This augmented expenditure, however, deprived the people of the full benefits of a judicious scheme of taxation. The property-tax, intended only as a temporary expedient, was continued; and however light and equal the general incidence of other taxes, — enormous contributions to the state were necessarily a heavy burden upon the industry, the resources, and the comforts of the people.

Such have been the legislative fruits of extended liberty: — wise laws, justly administered; a beneficent care for the moral and social welfare of the people; freedom of trade and industry; lighter and more equitable taxation. Nor were these great changes in our laws and policy effected in the spirit of democracy. They were made slowly, temperately, and with caution. They were preceded by laborious inquiries, by discussion, experiments, and public conviction. Delays and opposition were borne patiently, until truth steadily prevailed; and when a sound policy was at length recognized, it was adopted and carried out, even by former opponents.[1]

These changes carefully made.

[1] M. Guizot, who never conceals his distrust of democracy, says: — "In the legislation of the country, the progress is immense: justice, disinterested good sense, respect for all rights, consideration for all interests, the conscientious and searching study of social facts and wants, exercise a far greater sway than they formerly did, in the government of England: in its

Good government promotes content and discourages democracy.

Freedom and good government, a generous policy and the devotion of rulers to the welfare of the people, have been met with general confidence, loyalty, and contentment. The great ends of freedom have been attained, in an enlightened and responsible rule, approved by the judgment of the governed. The constitution, having worked out the aims and promoted the just interests of society, has gained upon democracy; while growing wealth and prosperity have been powerful auxiliaries of constitutional government.

Pressure of legislation since the Reform Act.

To achieve these great objects, ministers and Parliaments have labored, since the Reform Act, with unceasing energy and toil. In less than thirty years, the legislation of a century was accomplished. The inertness and errors of past ages had bequeathed a long arrear to lawgivers. Parliament had long been wanting in its duty of "devising remedies as fast as time breedeth mischief."[1] There were old abuses to correct, new principles to establish, powerful interests and confirmed prejudices to overcome, the ignorance, neglect, and mistaken policy of centuries to review. Every department of legislation, — civil, ecclesiastical, legal, commercial, and financial, — demanded revision. And this prodigious work, when shaped and fashioned in council, had to pass through the fiery ordeal of a popular assembly; to encounter opposition and unrestrained freedom of debate, the conflict of parties, popular agitation, the turmoil of elections, and lastly, the delays and reluctance of the House of Lords, which still cherished the spirit and sympathies of the past. And further, this work had to be slowly wrought out in a Parliament of wide remedial jurisdiction, — the Grand Inquest of the nation. Ours is not a council of sages for framing laws, and planning amendments of the constitution; but a free and vigorous Parliament,

domestic matters, and as regards its daily affairs, England is assuredly governed much more equitably and wisely." — *Life of Sir R. Peel*, p. 373

[1] Lord Bacon. Pacification of the Church.

which watches over the destinies of an empire. It arraigns ministers; directs their policy, and controls the administration of affairs; it listens to every grievance; and inquires, complains, and censures. Such are its obligations to freedom; and such its paramount trust and duty. Its first care is that the state be well governed; its second that the laws be amended. These functions of a Grand Inquest received a strong impulse from Parliamentary Reform, and were exercised with a vigor characteristic of a more popular representation. Again, there was the necessary business of every session, — provision for the public service, the scrutiny of the national expenditure, and multifarious topics of incidental discussion, ever arising in a free Parliament. Yet, notwithstanding all these obstacles, legislation marched onward. The strain and pressure were great, but they were borne; [1] and the results may be recounted with pride. Not only was a great arrear overtaken; but the labors of another generation were, in some measure, anticipated. An exhausting harvest was gathered; but there is yet ample work for the gleaners, and a soil that claims incessant cultivation. "A free government," says Machiavel, "in order to maintain itself free, hath need, every day, of some new provisions in favor of liberty." Parliament must be watchful and earnest, lest its labors be undone. Nor will its popular constitution again suffer it to cherish the perverted optimism of the last century, which discovered perfection in everything as it was, and danger in every innovation.

Foreign relations affected by freedom.

Even the foreign relations of England were affected by her domestic liberty. When kings and nobles governed, their sympathies were with crowned heads; when the people were admitted to a share in the government, England favored constitutional freedom in other states, and became the idol of every nation which cherished the same aspirations as herself.

[1] The extent of these labors is shown in the reports of Committees on Public Business in 1848, 1855, and 1861; in a pamphlet, by the author, on that subject, 1849; and in the Edinburgh Review, Jan. 1854, art. vii.

Conclusion. This history is now completed. However unworthy of its great theme, it may yet serve to illustrate a remarkable period of progress and renovation in the laws and liberties of England. Tracing the later development of the constitution, it concerns our own time and present franchises. It shows how the encroachments of power were repelled, and popular rights acquired, without revolution; how constitutional liberty was won, and democracy reconciled with time-honored institutions. It teaches how freedom and enlightenment, inspiring the national councils with wisdom, promoted the good government of the State and the welfare and contentment of society. Such political examples as these claim the study of the historian and philosopher, the reflection of the statesman, and the gratulations of every free people.

SUPPLEMENTARY CHAPTER.

1861—1871.

Review of Political Progress since 1860: — Tranquillity under Lord Palmerston: — His Death: — Earl Russell's Reform Bill, 1866: — Reform Acts of Earl of Derby and Mr. Disraeli, 1867–1868: — Disestablishment of the Irish Church: — Irish Land Act: — Settlement of Church-Rate Question: — University Tests: — Repeal of Ecclesiastical Titles Act: — Education: — The Ballot.

Constitutional changes, 1760–1860.

THE century comprised in this history was a period of remarkable constitutional progress. The political abuses of many ages were corrected; and our laws and institutions judiciously improved and developed. While other states were convulsed by revolutions, English liberties were steadily advancing without violence or tumult. The influence of the crown was constantly diminished, and ministerial responsibility increased. The political ascendency of the House of Peers was reduced. The House of Commons, purged of corruption, and casting off its dependence upon patrons, received a vast increase of power from a wider representation of the people, while it became more responsible to the country, and more sensitive to public opinion.

Meanwhile, the press attained a power which had never been conceived in any constitutional system. Irresponsible itself, but at once forming and expressing the sentiments of the people, it swayed the councils of responsible rulers. In alliance with the press, political agitation exercised a potent influence over the executive government and the legislature.

No less remarkable was the change in the relations of the church to the state, and to the community. The supremacy of the state church had been maintained by a penal code for the repression and discouragement of Roman Catholics and nonconformists. Within this period every restraint upon freedom of conscience, and every civil disability, was swept away. Religious freedom and equality had become the settled policy of the state.

Such were the changes in the laws and liberties of England, which distinguished this period of our history. Let us now approach the consideration of our political progress since 1860.

Political tranquillity under Lord Palmerston.

The five first years of this period were marked by unusual political tranquillity. The discussions upon Parliamentary reform, in 1860, had failed to awaken any excitement, or even interest, in favor of further electoral changes. After thirty years of agitation, and legislative activity, the minds of men appeared to be at rest. The Crimean war, and the Indian mutiny, had served to divert public attention from domestic politics; and the great civil conflict in the United States engrossed the thoughts of all classes of Englishmen.

Such being the sentiments and temper of the country, the venerable statesman who directed its policy, as first minister, was little inclined to disturb them by startling experiments in legislation. No ruler was ever more impressed with the practical wisdom of the maxim, "*quieta non movete*," than Lord Palmerston, in the last years of his long political life. Originally an enlightened member of that party which had been opposed to change, he had developed into a member of the liberal administration, which had carried the Reform Act of 1832. Henceforward he frankly accepted the policy, and shared the fortunes, of the liberal party, until he became their popular leader. He had outlived some generations of his countrymen: he had borne a part in the

political strifes of more than half a century: he had observed revolutions abroad, and organic changes at home: and in these, his latter days, he was disposed, as well by conviction as by temperament, to favor political tranquillity. Of rare sagacity, and ripe judgment, it had long been his habit to regard public affairs from a practical rather than a theoretical point of view; and the natural inertness of age could not fail to discourage an experimental policy.

The miscarriage of the Reform Bill of 1860 had demonstrated the composure of the public mind; and Lord Palmerston perceived that in a policy of inaction he could best satisfy the present judgment of the country, and his own matured opinions.

Such an attitude, if it alienated the more advanced section of his supporters, was congenial to the great body of the Whigs, and disarmed the opposition, who were convinced that his rule would insure the maintenance of a Conservative policy.

Hence, during his life, the condition of the country may be described as one of political repose. There was no great agitation or popular movement: no pressure from without: while within the walls of Parliament this adroit and popular minister contrived at once to attach his friends, and to conciliate his opponents.

Attempts to disturb the franchises of 1832.

The question of parliamentary reform, now dropped by the Government, was occasionally pressed forward by other members. In 1851, Mr. Locke King sought to lower the county franchise to 10*l.*, and Mr. Baines to reduce the borough franchise to 6*l.*; but neither of these proposals found favor with the House of Commons.

Again, in 1864, these proposals were repeated, without success, though supported by strong minorities. Meanwhile, reformers were perplexed by the utterances of statesmen. The veteran reformer, Earl Russell, had lately counselled

the people of Scotland to "rest and be thankful;" while Mr. Gladstone earnestly advocated the claims of working men to the suffrage, and contended that "every man who is not presumably incapacitated by some personal unfitness, or political danger, is morally entitled to come within the pale of the constitution."

In 1865, Mr. Baines' bill revived the discussion of parliamentary reform. Though supported by Government, it was defeated by a considerable majority. The debate was signalized by a protest against democracy by Mr. Lowe, which foreshadowed his relations to his own party, and to the cause of reform, at no distant period.

Dissolution of Parliament, 1865.

After this session, Parliament, which had exceeded the usual span of Parliamentary life,[1] was dissolved. The elections were not marked by the excitements of a severe party conflict: no distinct issue was referred to the constituencies; and general confidence in Lord Palmerston was relied upon by candidates rather than any special policy: but the Liberal party gained a considerable accession of strength.

Mr. Gladstone rejected by the University of Oxford.

There was, however, one memorable election. Mr. Gladstone, who had represented the University of Oxford for eighteen years, lost his seat, and was returned for South Lancashire. As member for the University, his career was always restrained and trammelled: as member for a great manufacturing and commercial county, he was free to become the leader of the Liberal party.

Death of Lord Palmerston.

At length in October, 1865, the aged premier died, at the summit of his power and popularity; and at once a change came over the national councils. He was succeeded by Earl Russell, the acknowledged leader of the Whigs, and the statesman most associated with Parliamentary reform. He had felt deeply

Earl Russell Premier.

[1] Upwards of six years.

the loss of his own measure in 1860, and the subsequent relations of Lord Palmerston's government to its policy. They had fought their way into office as the champions of reform, and at the first check, had abandoned it. For five years they had been content to rule and prosper, without doing further homage to that cause; and now Earl Russell, Mr. Gladstone, and other members of the cabinet, would no longer submit to the reproach of insincerity. Nor was a change of policy, at this time, dictated merely by a sense of honor and consistency. It rested upon a continued conviction of the necessity of such a measure, in the interests of the state, and in fulfilment of obligations which Parliament, no less than ministers, had assumed. And further it was deemed politic, with a view to satisfy the long-deferred hopes of the more advanced members of the Liberal party. Accordingly, in the autumn, Earl Russell announced that the consideration of reform would be renewed in the approaching session.

Revival of Parliamentary Reform.

There were, however, some considerations, not sufficiently weighed at the time, which had a disastrous influence over the fate of ministers, and of the measure to which they stood committed. Parliament had recently been dissolved, while Lord Palmerston was still minister, and reform had been treated, upon the hustings, with little more earnestness than in the House of Commons. Hence the cause was without the impulse of a popular demand. Again, a large proportion of the members, returned at the general election, sharing the sentiments of Lord Palmerston and the late Parliament, had no inclination to disturb the political calm of the past few years. But above all, in this, the first session of a new Parliament, members were invited to recast the constitution of the House of Commons, many of them to forfeit their seats, and all to return speedily to their constituents. The political situation, indeed, may be compared to a feast offered to guests who had lately dined.

Considerations adverse to its settlement.

Earl Russell's Reform Bill.

At the first meeting of the Cabinet, after Lord Palmerston's funeral, ministers had taken means to collect ample electoral statistics:[1] and early in the session of 1866 were prepared to submit their proposals to Parliament. Warned by the obstacles which a comprehensive measure had encountered in 1860, they confined their scheme to a revision of the franchise, reserving for another session the embarrassing problem of a redistribution of seats. It was proposed to reduce the occupation franchise in counties to 14*l.* annual value, and in boroughs to 7*l.* The addition to the voters was estimated at 400,000, of which one-half would be working men. This measure, however moderate and cautious, was at once beset with difficulties. Though falling short of the views of Mr. Bright and the radicals, it was supported by them as an "honest measure." But it was denounced by the Conservatives, and even by several Whigs, as democratic and revolutionary; and an alarming defection soon disclosed itself in the ministerial ranks. Comprising about forty members, it numbered among its leaders Mr. Lowe, Mr. Horsman, Mr. Laing, Lord Elcho, Earl Grosvenor, and Lord Dunkellin. This party was humorously compared by Mr. Bright with those who had gathered in the "cave of Adullam," by which name it was henceforth familiarly known.

"The Cave."

Earl Grosvenor's amendment.

The first weak point in the scheme which was assailed, was the omission of a redistribution of seats. This was brought to an issue by an amendment of Earl Grosvenor, on the second reading of the bill, when ministers, after a spirited debate of eight nights, and in a very full house, escaped defeat by five votes only.[2] Deferring to the opinion of so large a minority, ministers promised a bill for the redistribution of seats, and reform

[1] Mr. Gladstone's speech, on introducing the English Reform Bill, March 12th, 1866.

[2] Ayes, 318; Noes, 313.

bills for Scotland and Ireland, before they proceeded with the original measure. On the 7th May, these bills were introduced. By the redistribution of seats bill, thirty boroughs having a population under 8,000 lost one member, and nineteen other seats were obtained by the grouping of smaller boroughs, — forty-nine seats being available for larger places. Though sharply criticised, this bill was read a second time without a division: but ministers were obliged to agree to a proposal of Mr. Bouverie to refer it and the franchise bill to the same committee, with a view to their consolidation. Nor was this all: the measure was already too large to be fully discussed, when Sir R. Knightley carried an instruction to the committee, by a majority of ten, to provide for the better prevention of bribery and corruption at elections.

Bills for the franchise and redistribution of seats united.

In committee Lord Stanley moved, without notice, the postponement of the franchise clauses; but was defeated by a majority of twenty-seven. Mr. Walpole moved that the occupation franchise in counties should be raised to 20*l.*, and his amendment was lost by fourteen votes only. Mr. Hunt proposed that the county franchise should be based on rating instead of rental, and was resisted by a majority of seven; and lastly, Lord Dunkellin moved a similar amendment in regard to boroughs, which was carried against the government, by a majority of eleven.

Continued opposition to the bill.

Ministers now perceived that the game was lost. They had declared their resolution to stand or fall by their bill; and its fate was beyond hope of recovery. They submitted their resignation to the Queen, who hesitated to accept it; and a vote of confidence was about to be moved with a view to re-establish them, when they finally determined to resign.[1] Their defeat, indeed,

Resignation of ministers.

[1] Mr. Crawford, member for the City of London, was on the point of rising to give notice of a vote of confidence, when he received a letter from Earl Russell announcing his resignation.

had been sustained upon a question of secondary importance, and might have been repaired at a later stage of the bill: but they had been sorely pressed on other occasions: their party was disorganized and broken up: it was plainly impossible to pass the bill, and they could not abandon it without discredit.

Earl of Derby Premier, 1866.

Such was the issue of this infelicitous measure. A strong ministry was ruined; a triumphant party overthrown; and the minority again placed in power, under the Earl of Derby. But events of higher importance resulted from the miscarriage of this measure.

Popular agitation.

For some years, reformers had been indifferent and inert: when Earl Russell promised reform, they trusted him, and were calm and hopeful: but now that he had been driven from power, and supplanted by the opponents of reform, they became restless and turbulent. The spirit of democracy was again awakened, and the new government were soon brought into collision with it. A meeting in Hyde Park had been announced by the Reform League for July 23d, as a demonstration in favor of an extension of the suffrage. Ministers being advised that the crown had power to prevent such a meeting in a Royal Park,[1] and fearful of a disturbance to the public peace, instructed the police to close the gates of the park, and prevent the entrance of the multitudes expected to assemble there. The gates were accordingly barred; and the leaders of the League, on being refused admittance, proceeded, according to previous arrangement, to Trafalgar Square to hold their meeting. Meanwhile, the park gates were securely held, and a considerable police force was collected inside. But the vast enclosure was without protection, and the mob, pulling down the railings, rushed through every breach, and took forcible possession of the park.

Hyde Park riots, July 23d, 1866.

[1] This right had been affirmed in 1855 by an opinion of the Law Officers of the Crown, Sir A. Cockburn and Sir R. Bethell, and of Mr. Willes.

Democracy had overcome the government; and the maintenance of order was afterwards due, as much to the exertions of Mr. Beales and the Reform League, as to the police.

These events increased the public excitement, and encouraged the activity of the reformers. Several important meetings and popular demonstrations were held, which stirred the public mind: while political uneasiness and discontents were aggravated by commercial distress and an indifferent harvest. Impulse given to reform.

Public opinion had, at length, been aroused in favor of reform: but the House of Commons had lately shown its disinclination to deal with that question; and the party of whom the new ministry was composed, aided by a strong body of Whigs, had defeated Earl Russell's moderate measure, as revolutionary. Would ministers resist reform, and count upon the support of their new allies: or venture upon another reform bill, and trust for success to adroit management, and the divisions in the Liberal party? Position of Ministers in regard to reform.

These questions were set at rest, at the opening of the session, by the announcement of a reform bill in the Queen's speech. No position could be more embarrassing for a government. In a minority of seventy in the House of Commons: representing a party opposed to the principles of reform: brought into power by resisting such a measure when offered by the late government: confronted by a strong party in the House pledged to reform, and by popular agitation: in what manner could they venture to approach this perilous question? At first they invited the House no longer to treat reform as a party question, but to concert a satisfactory measure in friendly consultation; and for this purpose they offered to submit resolutions as the basis of a bill. Such a course was naturally objected to, as being designed to evade ministerial responsibility; and when the resolutions Introduction of the question, 1867. Mr. Disraeli's resolutions.

appeared, they proved too vague and ambiguous for effective discussion. In explaining them, indeed, Mr. Disraeli sketched the outline of the ministerial scheme: but they were eventually withdrawn; and ministers were forced to commit themselves to more definite proposals. And here the difficulties of their position were disclosed by the resignation of three members of the Cabinet, — the Earl of Carnarvon, Lord Cranborne, and General Peel. Their reluctance had already induced the government to sketch out a less bold scheme than their colleagues had been prepared to propose; and their retirement, otherwise a source of weakness, now enabled the Cabinet to agree upon a more extended measure.

Earl of Derby's Reform Bill.

At length, on the 18th March, the bill, which had caused so much expectation, was introduced. The franchise was granted in boroughs to every householder paying rates, who had resided for two years: in counties to every occupier rated at 15*l.*; and there were added various franchises, based upon education and the payment of taxes. As a counterpoise to the extended occupation suffrage, a scheme of dual voting was proposed for voters of a higher qualification. There was to be a redistribution of thirty seats.

Its securities and compensations.

The scheme was founded throughout upon the principle of securities and compensations, the conception of which was due to the peculiar relations of the Government to different parties. Household suffrage in boroughs, the distinctive principle of Mr. Bright and the radicals, had also found favor with Mr. Henley, Mr. Walpole, Sir Roundel Palmer, and a certain section of the Conservatives; and could not be opposed by the Whigs, without an open breach with advanced reformers. On the other hand, it was qualified by a two years' residence, by the personal payment of rates, by voting papers, by education and tax-paying franchises, and by dual voting. These securities, as they were called, against a democratic

franchise, commended the measure to the Conservative party; but their futility had been apparent to the seceding ministers, and was soon to be proved by their successive rejection or abandonment. The measure embraced proposals calculated to please all parties; and ministers were prepared to assent to any amendments by which its ultimate character should be determined by the majority. The results may be briefly told. Household suffrage in boroughs was maintained, with one year's residence instead of two; the county franchise was reduced to 12*l.*; a lodger franchise was added; the higher class franchises, the dual votes, and voting papers disappeared from the bill; and the disqualification of large numbers of compound householders was averted.

Its ultimate form.

The scheme for the redistribution of seats was also enlarged. Every provision which had reconciled Conservatives to the measure was struck out: every amendment urged by the liberal party was grafted upon the bill. And thus the House of Commons found itself assenting, inch by inch, to an extended scheme of reform, which neither Conservatives nor Whigs wholly approved. Parties had been played off against one another, until a measure which gratified none but advanced reformers, — probably not more than a sixth of the House of Commons, — was accepted, as a necessity, by all.

While the bill was under discussion in the House of Commons, the public excitement gave an impulse to the Liberal party, in passing every amendment favorable to extended franchises. And one remarkable episode illustrated at once the strength of popular sentiment, and the impotence of the executive Government to resist it. A great demonstration in favor of reform was announced to take place on the 6th May, in Hyde Park, when Mr. Walpole, the Home Secretary, not profiting by his sore experience of the previous year, issued

Meeting in Hyde Park, May 6, 1867.

a proclamation, stating that the use of the park for the holding of such meeting was not permitted, and warning and admonishing all persons to refrain from attending it. But, in spite of this proclamation, the meeting was held, and large assemblages of people occupied the park, without disorder or disturbance.

The right of the Government to prohibit the meeting was contested not only by Mr. Beales and the Reform League, but by Mr. Bright and many other members of the Liberal party. On the other hand, the conduct of the Government in first prohibiting the meeting, and then allowing it to take place, in defiance of their authority, was censured as bringing the executive into contempt. In deference to the strong opinions expressed upon this subject, Mr. Walpole resigned the seals of the Home Department, but retained his seat in the Cabinet.

Unsatisfactory state of the law.

Meanwhile, the state of the law in reference to the use of the parks for public meetings was so unsatisfactory, that the Government had brought in a bill to prohibit, under the penalties of a misdemeanor, the holding of any meeting in the royal parks, without the consent of the crown. This bill being violently opposed, was overtaken by the close of the session, and abandoned; and the law has still been left uncertain, and incapable of enforcement. It cannot be questioned that the meetings of 1866, and 1867, should either have been allowed, or effectually prevented. The latter course could only be taken at the risk of bloody collisions with the people; and accordingly such meetings have since been permitted, and have signally failed as popular demonstrations.[1]

Proceedings in the Lords upon the Reform Bill.

In the House of Lords, several amendments were made to the Reform Bill; but the only one of importance agreed to by the Commons was a clause of Lord Cairns, providing, with a view to the

[1] Such meetings were regulated by Act in 1872.

representation of minorities, that in places returning three members, no elector should vote for more than two candidates.

The scheme of enfranchisement, however, was not yet complete. The settlement of the boundaries of boroughs and the divisions of counties was referred to a commission, and the consideration of the reform bills for Scotland and Ireland was postponed until the next session.

Boundaries of boroughs and counties.

Before these measures were introduced, in 1868, the Earl of Derby was obliged by ill-health to retire, and was succeeded as Premier by Mr. Disraeli, to whose extraordinary tact, judgment, and address the passing of the English Reform Act was acknowledged to be due. Many difficult questions remained to be settled, which needed the exercise of all his abilities. The Scotch Reform Bill, founded generally upon the same principles as the English bill, proposed an increase of seven members to represent Scotland. This provision contemplated an addition to the number of the House of Commons, which was resisted; and justice to the claims of Scotland was eventually met by the disfranchisement of seven English boroughs having less than 5,000 inhabitants; and in this form the bill for the representation of Scotland was passed.

Resignation of Earl of Derby.

Mr. Disraeli Premier.

The Scotch Reform Act, 1868.

The Reform Bill for Ireland left the county franchise unaltered, reduced the borough franchise, and proposed a partial redistribution of seats, which was shortly abandoned. The measure, avowedly incomplete, and unequal to the English and Scotch schemes, was nevertheless assented to, as at least a present settlement of a question beset with exceptional difficulties.

The Irish Reform Act, 1868.

The boundaries of the English boroughs and the new divisions of counties were still to be settled; and, after an inquiry by a select committee, the boundaries, as defined by the commissioners, were, with several modifications, agreed to.

Boundaries of boroughs and counties.

Election Petitions and Corrupt Practices Act, 1863.

The series of measures affecting the electoral system was not even yet concluded. A measure was, after long discussions, agreed to, for transferring the cherished jurisdiction of the Commons, in matters of election, to judges of the superior courts, and for amending the laws in restraint of corrupt practices. And, lastly, a bill was passed to facilitate the registration of the year, so as to insure the election of a Parliament during the autumn, by the new electors.

Constitutional importance of these measures.

These measures for extending the representation of the people were little less important than the great Reform Acts of 1832. The new franchises embraced large numbers of the working classes, and greatly enlarged the basis of electoral power. At the same time, a certain counterpoise to household suffrage was found in the addition of twenty-five members to the English counties, which their population fully justified, and the withdrawal of thirty-three members from English boroughs.

Considering how this great constitutional change had been accomplished, — not by the deliberate judgment of statesmen, but by the force of circumstances, — its results were, not unnaturally, viewed with grave misgivings. The Earl of Derby himself had said, "No doubt we are making a great experiment, and taking a leap in the dark;"[1] and many thoughtful men believed the state to be approaching the very verge of democracy. Nor can there be any reasonable doubt that the popular element of the constitution acquired a decided preponderance. Even with a limited franchise, popular influences had prevailed; and an extended representation necessarily invested them with greater force, and clothed them with more authority. Yet the sound principles of these measures have since been generally acknowledged. If the settlement of 1832 was to be disturbed, — and no one contended for its perpetuity, — household suffrage was

[1] August 6th, 1867; upon the question "that this bill do pass."

an ancient franchise known to the constitution: it had been advocated in 1797 by Mr. Fox and Mr. Grey: it found favor with men of widely different political sentiments; and its basis was broad and rational. The redistribution of seats was unquestionably judicious and moderate.

It may be too soon yet to estimate the results of the new constitution. Rank, property, and employment of labor, and other social influences, have apparently retained their ascendency; but however the popular will may be pronounced, no constitutional means are left for resisting it. At once to lead, to satisfy, and to control this vast power, and to hold it in harmony with other authorities, will demand the highest statesmanship. A Government resting upon the confidence of an enfranchised people will indeed be strong: but its policy must be that of the community, which is the source of power.

Whatever may be our institutions, public opinion has become the ultimate ruler of our political destinies. However formed, — whether by statesmen or demagogues, — whether by society at large or by the press, — or by all of them combined, — it dominates over ministers and parliaments. Under a more restricted representation, it dictated the policy of the state; and under our present constitution, it will exercise its influence more promptly and decisively. In public opinion, therefore, rests at once our safety and our danger. If rational and well ordered, like the society of this great country, whose judgment it should express, we may rely upon it with confidence. If it should become perverted and degenerate, who shall save us from ourselves?

Irish Church Question, 1868.

While the discussions upon the later measures of Parliamentary reform were still proceeding, the condition of Ireland, its discontents, and disaffection, the outrages of the Fenians, and the continued suspension of the Habeas Corpus Act, demanded the attention of Par-

liament; and the policy of the Government in relation to that country was explained. Ministers promised an inquiry into the relations of landlord and tenant, proposed to create a new Catholic university by royal charter, and intimated that when the Commission already inquiring into the condition of the Irish Church should report, they might review that establishment. Hints were also given of promoting religious equality, by an increase of the *regium donum*, and by the endowment of the Catholic clergy, — a policy, as it was described by Lord Mayo, of levelling upwards, and not downwards. On the other side, Mr. Gladstone declared the policy by which he was prepared to redress the grievances of Ireland, and to bring peace and contentment to that country.

16th March, 1868.

In 1865, and again in 1867,[1] Mr. Gladstone had disclosed a growing conviction that a review of the church establishment in Ireland would soon be necessary; and he now announced that, in his opinion, the time had come when the Protestant Church, "as a state church, must cease to exist." It was in this form that he would secure religious equality in Ireland. He also urged the necessity of an early settlement of the land question.

Irish Church.

The disestablishment of the Irish Church henceforth became the primary question of the time, and was accepted by the entire Liberal party, as its watchword. Parliamentary reform was being settled by the united action of all parties: but this was a question by which Conservatives and Liberals were again divided into hostile ranks. Mr. Gladstone soon carried resolutions, in opposition to the Government, by which it was sought to prevent the creation of new public interests in the church, until Parliament had settled the future position of that establishment. Ministers, defeated upon so momentous a policy, tendered their resignation, but obtained from the

Mr. Gladstone's resolutions.

[1] March 28th, 1865; May 7th, 1867.

Queen a power of dissolving Parliament, whenever the state of public business would permit it. A dissolution at that time would have involved an appeal to the old constituencies, instead of to the new electoral bodies, which were to be called into being by the measures still pending in Parliament; and eventually ministers allowed the Suspensory Bill, founded upon Mr. Gladstone's resolutions, to be passed through the House of Commons, while the reform bills were being completed in view of a dissolution in the autumn. The exceptional position of ministers during this interval could not fail to elicit criticism. They had suffered a grave defeat upon a vital question of state policy: a measure which they denounced was being carried through the House of Commons, in defiance of them: they had advised Her Majesty not to withhold her consent from the Suspensory Bill, which otherwise could not have been passed by the Commons: they had received authority to appeal from the Commons to the country, and yet deferred the exercise of that authority, and continued to hold office, and to pass important measures, in presence of a hostile majority. Yet it cannot be denied that the peculiar circumstances of the occasion naturally led to such a position, on the part of ministers. They could not be expected to resign without an appeal to the people; and a sudden dissolution, while the great measures of enfranchisement were still incomplete, would have been an idle and mischievous disturbance of the country, involving a second dissolution a few months later. The Irish Church question had come athwart Parliamentary reform, and was left to await its further progress. The Suspensory Bill was rejected by the House of Lords: the supplementary measures of reform were completed; and at length an appeal was made to the people. The main issue was the policy of disestablishing the Irish Church; the second was the confidence to be reposed, by the majority of

May, 1868.

His suspensory bill.

The dissolution of 1868.

the electors, in one or other of the great political parties, whose policy, character, and conduct had recently been displayed in the contentions of the three last eventful years.

The result of the elections was decisive of these issues.

Its decisive results.

All the conditions of success were on the side of the Liberal party. The policy of disestablishing the Irish Church united English Dissenters, Scottish Presbyterians, and Irish Roman Catholics with Liberal politicians of every shade, who had long regarded that institution as theoretically indefensible. The wide extension of the suffrage had also increased their power. Many Conservatives had persuaded themselves that the lower class of electors would be on their side; but generally it was found that the sympathies of the new constituencies were with the Liberal party.[1] There were, indeed, some remarkable exceptions. Mr. Gladstone himself was defeated in South-West Lancashire, — a new division of that county which came within the Conservative influence of Liverpool. Other parts of that great manufacturing county, and its boroughs, also showed a strong preference for Conservative candidates. On the whole, however, the Liberal party, throughout the country, sent to Parliament a majority of about 120, pledged to support Mr. Gladstone, and to vote for the disestablishment of the Irish Church. So decided and incontestable was the national verdict, that Mr. Disraeli, without waiting for the meeting of Parliament, placed in Her Majesty's hands the resignation of ministers; and Mr. Gladstone (who had been returned for Greenwich) was at once charged with the formation of a new administration. It united Peelites, Whigs, and advanced Liberals: it embraced Mr. Bright and Mr. Lowe.

Resignation of ministers, 2d Dec., 1869.

Mr. Gladstone Premier.

[1] In the United Kingdom 1,408,239 electors voted for Liberal candidates, and 883,530 for Conservative candidates, thus showing a majority of 524,709 in favor of the former.

And now was witnessed the extraordinary power of a Government representing the popular will, under an extended franchise. Mr. Gladstone had committed himself to the boldest measure of modern times. Thirty years before, the House of Lords and the Conservative party had successfully resisted the theoretical assertion of the right of the state to appropriate the surplus revenues of the Irish Church; and now it was proposed to disestablish and disendow that church, and, after the satisfaction of existing interests, to apply the bulk of its revenues to secular purposes. Founded upon the principle of religious equality, it was a masterly measure, — thorough in its application of that principle, — and complete in all its details. Given the principle, — which public opinion had now fully accepted, — its legislative workmanship was consummate. The church was severed from the state, and its bishops deprived of their seats in Parliament. At the same time, the annual grants to Presbyterian ministers, in the form of *regium donum*, and to the Roman Catholic college of Maynooth, were commuted.

The Irish Church Bill, 1869.

This great ecclesiastical measure — by far the greatest since the Reformation — was supported by arguments of rare ability, and by overwhelming majorities. The Lords secured somewhat better terms for the church, but all their amendments which otherwise affected the principle, or main conditions of the bill were disagreed to; and the bill, unchanged in every essential point, was passed in a single session.

When the disestablishment of the Church in Ireland had been accomplished, Mr. Gladstone immediately undertook to redress another Irish grievance. For nearly forty years the relations between landlords and tenants in Ireland had been discussed in Parliament, and especially the system of evictions, and the rights of tenants to compensation for unexhausted improvements. This difficult question, so nearly affecting the rights of property, was grap-

Irish Land Bill, 1870.

pled with by Mr. Gladstone in 1870, and carried to a successful conclusion, like the Irish Church bill, in the same session.

Church rates, 1866-68.

This period also witnessed the settlement of another important question affecting the Church, which had been under the consideration of Parliament for thirty-five years. In 1866, a compromise in regard to church rates, first suggested by Mr. Waldegrave-Leslie, had been viewed favorably by Mr. Gladstone. It was to abolish compulsory church rates, and to facilitate the raising of voluntary church rates. In 1867, Mr. Hardcastle succeeded in passing a bill through the Commons to give effect to this arrangement: but it was rejected by the Lords, upon the second reading.

Church rates, 1868.

And, at length, in 1868, Mr. Gladstone introduced a bill founded upon the same principle. It commended itself to dissenters as giving up the principle of compulsion; and to churchmen as affording a legal recognition of voluntary church rates, and providing machinery for their assessment and collection. The church had already been practically reduced to a voluntary system of church rates; and this bill, if it surrendered her theoretical claims, at least saved her from further litigation and obloquy. It was approved by the Commons, and was even accepted by the Lords, after consideration by a select committee, and the addition of several amendments. And thus, at length, this long-standing controversy between churchmen and dissenters was brought to a close. If the church failed in securing all her legal rights, the present settlement was founded upon the practical result of a long contention in the courts and in Parliament, and was a compromise which all parties were contented to accept.

University Tests.

Other questions affecting the interests of churchmen, dissenters, and Roman Catholics were also pressing for a settlement, at this time. Foremost of these was that of religious tests at the universities, by which

dissenters were denied their share in the privileges and endowments of those national seats of learning, for which churchmen alone were qualified.

The injustice of this exclusion had been repeatedly discussed: but it was not until 1866 that the entire Liberal party were determined to redress it. In that year a bill, introduced by Mr. Coleridge, was passed by the Commons, and rejected by the Lords. Again, in 1868, the second reading of a bill with the same objects, introduced by Mr. Coleridge, was agreed to after full discussion, and by a large majority:[1] but was prevented, by the pressure of other measures, from being further proceeded with in that session.

In 1869, a similar bill was passed by the Commons and again rejected by the Lords. Again, in 1870, the University Tests Bill was passed by the Commons; and referred by the Lords to a select committee, whose deliberations deferred the bill to another session. But, at length, in 1871, the same bill, having again been sent up to the Lords, was ultimately agreed to.

University Tests Bill, 1869.

University Tests Bill, 1870

University Tests Act, 1871.

This Act, stating that the benefits of these universities "shall be freely accessible to the nation," enacted that persons taking lay academical degrees, or holding lay academical or collegiate offices in the universities of Oxford, Cambridge, or Durham, shall not be required to subscribe any religious test or formulary. But as it did not open to dissenters the headships of colleges, or professorships of divinity, or offices required to be held by persons in holy orders or by churchmen, some dissatisfaction was still expressed at this settlement. Otherwise another controversy was, at length, closed; and one of the last grievances of dissenters redressed.

Another religious controversy was also settled by Parliament. The celebrated Ecclesiastical Titles Act was an offence to Roman Catholics, while it

Ecclesiastical Titles Act, 1871

[1] By 198 against 140.

was wholly inoperative as a protection against the Church of Rome. After an inquiry into its operation by a committee of the House of Lords, in 1868, and discussions in both Houses concerning the form in which the law should be expressed, rather than its policy, the Act was eventually repealed in 1871, with the general acquiescence of all parties. The law and the Queen's prerogative in regard to ecclesiastical titles and jurisdiction were again asserted by Parliament, but the original Act with its penalties, which had never been enforced, was removed from the statute book.

Education.

Of all social questions none can be compared in importance with that of the education of the people. Not only is it essential to their moral, intellectual, and material welfare, but at a time when large masses of the community had recently been invested with political power, it was obviously the duty of the state to apply itself earnestly to the task of popular enlightenment; and this task was undertaken immediately after the new scheme of representation had been completed.

In 1869, an important measure was passed in the interests of education, for the reform and regulation of endowed schools.

In the same year a comprehensive scheme for the improvement of education in Scotland was passed by the Lords; but was unfortunately lost, partly by reason of amendments made to the bill by the Commons, and partly in consequence of the late period at which these amendments were communicated to the Lords.

Elementary Education Act, 1870.

In England great advances had been made, since 1834, in popular education, aided by the state. But as the system was entirely founded upon local and voluntary efforts, it too often happened that the places which most needed the civilizing agency of the schoolmaster were left destitute. All parties admitted the neces-

sity of providing more effectual means for the general education of the people; but the old "religious difficulty" caused the widest divergence of opinions concerning the principles upon which education should be conducted. The church party naturally desired to retain the teaching of the church catechism, with a liberal conscience clause for the satisfaction of dissenters. Another party, known as Secularists, advocated secular education only in the schools, leaving religious instruction to be sought elsewhere. Another party, again, insisted upon religious instruction in the schools, while they objected to the church catechism and formularies.

In 1870, Mr. Gladstone's government were prepared with a scheme for the settlement of this great social question. The country was divided into school districts under the government of elected school boards, and provision was made for the support of schools out of local rates. The voluntary system, which had already accomplished so much good, was retained: but a more complete organization and extended means were provided. This wise and statesmanlike measure — which was carried through the House of Commons, with great ability, by Mr. Forster — was nearly lost by the intractable differences of the several parties, upon the religious question. It was at length settled, however, upon the principle of a conscience clause exempting every child from any religious instruction or observance to which his parents should object, and of excluding from schools, provided by a school-board, every denominational catechism or formulary.

No measure in which religious jealousies are concerned, can be settled to the satisfaction of all parties; and this scheme, accepted by the church and by a very large proportion of nonconformists, was naturally obnoxious to the secular party. But already its general acceptance by all religious denominations in the country, and the earnest spirit in which it is being carried into effect, promise well for its practical success.

The last question of constitutional policy which need be referred to, is that of the ballot. This question had long divided the Liberal party. It had been the distinctive principle of advanced Liberals: but had been opposed by Lord Palmerston, and by most of his Whig followers. In 1869, however, the recent extension of the representative system, disclosures at the late general election, and the altered relations of the leaders of the Liberal party to that section of their followers who favored secret voting, brought about a change of policy in regard to that question. Ministers accordingly proposed an inquiry into the mode of conducting Parliamentary and municipal elections, with a view to limit expense, and to restrain bribery and intimidation; and it was generally understood that this inquiry was designed to prepare the way for the general adhesion of ministers and the Liberal party to the principle of secret voting.

The Ballot.

This committee continued its investigations throughout the session; and being reappointed, in 1870, presented a report, recommending several changes in the mode of conducting elections, and the adoption of secret voting. The government introduced a bill founded upon this report: but the education bill and other important measures interfered with its further progress. Ministers, however, and the Liberal party now stood committed to the principle of the ballot; and this most important constitutional question, which for nearly forty years had been discussed rather as a political theory than as a practical measure, was accepted by a powerful Government, and a large majority of the House of Commons, as the policy of the state.

Ballot Bill, 1870.

In 1871, another bill was brought in and passed, after protracted discussions, by the Commons: but it was received by the Lords at so late a period of the session that they declined to consider it; and this com-

Ballot Bill, 1871.

pliment to an extended franchise still awaits the final judgment of Parliament.[1]

Such have been the constitutional measures of the last ten years. In all, we recognize the development of those liberal principles which had characterized the policy of a previous generation. In politics, more power has been given to the people: in religion, more freedom and equality. Conclusion.

[1] The ballot was, at length, adopted in 1872.

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